



Finance Act 2004

2004 CHAPTER 12

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 3

CONSTRUCTION INDUSTRY SCHEME

Introduction

57 Introduction

- (1) This Chapter provides for certain payments (see section 60) under construction contracts to be made under deduction of sums on account of tax (see sections 61 and 62).
- (2) In this Chapter “construction contract” means a contract relating to construction operations (see section 74) which is not a contract of employment but where—
 - (a) one party to the contract is a sub-contractor (see section 58); and
 - (b) another party to the contract (“the contractor”) either—
 - (i) is a sub-contractor under another such contract relating to all or any of the construction operations, or
 - (ii) is a person to whom section 59 applies.
- (3) In sections 60 and 61 “the contractor” has the meaning given by this section.
- (4) In this Chapter—
 - (a) references to registration for gross payment are to registration under section 63(2),
 - (b) references to registration for payment under deduction are to registration under section 63(3), and

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- (c) references to registration under section 63 are to registration for gross payment or registration for payment under deduction.
- (5) To the extent that any provision of this Chapter would not, apart from this subsection, form part of the Tax Acts, it shall be taken to form part of those Acts.

58 Sub-contractors

For the purposes of this Chapter a party to a contract relating to construction operations is a sub-contractor if, under the contract—

- (a) he is under a duty to the contractor to carry out the operations, or to furnish his own labour (in the case of a company, the labour of employees or officers of the company) or the labour of others in the carrying out of the operations or to arrange for the labour of others to be furnished in the carrying out of the operations; or
- (b) he is answerable to the contractor for the carrying out of the operations by others, whether under a contract or under other arrangements made or to be made by him.

59 Contractors

- (1) This section applies to the following bodies or persons—
- (a) any person carrying on a business which includes construction operations;
 - (b) any public office or department of the Crown (including any Northern Ireland department^[F1], the Welsh Assembly Government] and any part of the Scottish Administration);
 - (c) the Corporate Officer of the House of Lords, the Corporate Officer of the House of Commons^[F2], the Scottish Parliamentary Corporate Body and the National Assembly for Wales Commission];
 - (d) any local authority;
 - (e) any development corporation or new town commission;
 - (f) the ^[F3]Homes and Communities Agency];
 - ^[F4](fa) the Greater London Authority in the exercise of its functions relating to housing or regeneration or its new towns and urban development functions;]
 - (g) the Secretary of State if the contract is made by him under section 89 of the Housing Associations Act 1985 (c. 69);
 - (h) the ^[F5]Regulator of Social Housing], a housing association, a housing trust, Scottish Homes, and the Northern Ireland Housing Executive;
 - (i) any NHS trust;
 - (j) any HSS trust;
 - (k) any such body or person, being a body or person (in addition to those falling within paragraphs (b) to (j)) which has been established for the purpose of carrying out functions conferred on it by or under any enactment, as may be designated as a body or person to which this section applies in regulations made by the Board of Inland Revenue;
 - ^[F6](l) a person carrying on a business at any time if, in the period of one year ending with that time, the person's expenditure on construction operations exceeds £3,000,000.]

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- [^{F7}(2) But this section only applies to a body or person falling within any of paragraphs (b) to (fa) or (h) to (k) of subsection (1) at any time if, in the period of one year ending with that time, the body or person's expenditure on construction operations exceeds £3,000,000.
- (3) Where the condition in subsection (1)(l) or (2) is met in relation to a body or person at any time, the body or person may elect for the condition to be treated as no longer being met if, at that time, the body or person is not expected to make any further expenditure on construction operations.
- (3A) Where the condition in subsection (1)(l) or (2) ceases to be met in relation to a body or person at any time, the body or person may elect for the condition to be treated as continuing to be met until the body or person is not expected to make any further expenditure on construction operations.
- (3B) Subsections (3) and (3A) do not prevent the condition in subsection (1)(l) or (2) from being met again in relation to the body or person.]
- (4) Where the whole or part of a trade is transferred by a company (“the transferor”) to another company (“the transferee”) and [^{F8}Chapter 1 of Part 22 of the Corporation Tax Act 2010] has effect in relation to the transfer, then in determining for the purposes of this section the amount of expenditure incurred by the transferee—
- (a) the whole or, as the case may be, a proportionate part of any expenditure incurred by the transferor at a time before the transfer is to be treated as if it had been incurred at that time by the transferee; and
 - (b) where only a part of the trade is transferred, the expenditure is to be apportioned in such manner as appears to the Board of Inland Revenue, or on appeal to the [^{F9}tribunal], to be just and reasonable.
- (5) In this section—
- “development corporation” has the same meaning as in—
- (a) the New Towns Act 1981 (c. 64), or
 - (b) the New Towns (Scotland) Act 1968 (c. 16);
- “enactment” includes an enactment comprised in an Act of the Scottish Parliament and a provision comprised in Northern Ireland legislation;
- “housing association” has the same meaning as in—
- (a) the Housing Associations Act 1985 (c. 69), or
 - (b) Part 2 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/ 1725 (N.I. 15));
- “housing trust” has the same meaning as in the Housing Associations Act 1985;
- “HSS trust” means a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1));
- “new town commission” has the same meaning as in the New Towns Act (Northern Ireland) 1965 (c. 13 (N.I.));
- “NHS trust” means a National Health Service trust—
- (a) established under [^{F10}section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006], or
 - (b) constituted under section 12A of the National Health Service (Scotland) Act 1978 (c. 29).

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- (6) In this section references to a body or person include references to an office or department.
- (7) The Board of Inland Revenue may make regulations amending this section for the purpose of removing references to bodies which have ceased to exist.
- [^{F11}(8) This section is subject to section 73A (designated international organisations: exemption from section 59).]

Textual Amendments

- F1** Words in s. 59(1)(b) inserted (25.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 1(2), **Sch. 1 para. 107(a)**
- F2** Words in s. 59(1)(c) substituted (25.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 1(2), **Sch. 1 para. 107(b)**
- F3** Words in s. 59(1)(f) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 8 para. 82**; [S.I. 2008/3068](#), art. 2(1)(b)(3) (with arts. 6-13)
- F4** S. 59(1)(fa) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 19 para. 42(2)**; [S.I. 2012/628](#), art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F5** Words in s. 59(1)(h) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 9 para. 33**; [S.I. 2010/862](#), art. 2 (with Sch.)
- F6** S. 59(1)(l) substituted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), **Sch. 6 para. 2(2)**
- F7** S. 59(2)-(3B) substituted for s. 59(2)(3) (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), **Sch. 6 para. 2(3)** (with Sch. 6 para. 3)
- F8** Words in s. 59(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 426** (with Sch. 2)
- F9** Word in s. 59(4)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 420**
- F10** Words in s. 59(5) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 1 para. 256** (with Sch. 3 Pt. 1)
- F11** S. 59(8) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 459** (with Sch. 2)

Modifications etc. (not altering text)

- C1** S. 59(1)(h) modified (E.W.) (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, **Sch. para. 1** (with art. 6)

Deductions on account of tax from contract payments to sub-contractors

60 Contract payments

- (1) In this Chapter “contract payment” means any payment which is made under a construction contract and is so made by the contractor (see section 57(3)) to—
- (a) the sub-contractor,
 - (b) a person nominated by the sub-contractor or the contractor, or
 - (c) a person nominated by a person who is a sub-contractor under another such contract relating to all or any of the construction operations.

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(2) But a payment made under a construction contract is not a contract payment if any of the following exceptions applies in relation to it.

(3) This exception applies if the payment is treated as earnings from an employment by virtue of Chapter 7 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (agency workers).

[^{F12}(3A) This exception applies in so far as—

(a) the payment can reasonably be taken to be for the services of an individual, and

(b) the provision of those services gives rise to an engagement to which Chapter 10 of Part 2 of ITEPA 2003 applies (workers' services provided through intermediaries to public authorities or medium or large clients).

(3B) But the exception in subsection (3A) does not apply if, in the case of the engagement mentioned in paragraph (b) of that subsection, the client for the purposes of section 61M(1) of ITEPA 2003—

(a) is not a public authority, and

(b) either—

(i) does not qualify as medium or large for the tax year in which the payment concerned is made, or

(ii) does not have a UK connection for the tax year in which the payment concerned is made.

(3C) Sections 60I (when a person has a UK connection for a tax year), 61K(3) (when a person qualifies as medium or large for a tax year) and 61L (meaning of public authority) of ITEPA 2003 apply for the purposes of subsection (3B).]

(4) This exception applies if the person to whom the payment is made or, in the case of a payment made to a nominee, each of the following persons—

(a) the nominee,

(b) the person who nominated him, and

(c) the person for whose labour (or, where that person is a company, for whose employees' or officers' labour) the payment is made,

is registered for gross payment when the payment is made.

But this is subject to subsections (5) and (6).

(5) Where a person is registered for gross payment as a partner in a firm (see section 64), subsection (4) applies only in relation to payments made under contracts under which—

(a) the firm is a sub-contractor, or

(b) where a person has nominated the firm to receive payments, the person who has nominated the firm is a sub-contractor.

(6) Where a person is registered for gross payment otherwise than as a partner in a firm but he is or becomes a partner in a firm, subsection (4) does not apply in relation to payments made under contracts under which—

(a) the firm is a sub-contractor, or

(b) where a person has nominated the firm to receive payments, the person who has nominated the firm is a sub-contractor.

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- (7) This exception applies if such conditions as may be prescribed in regulations made by the Board of Inland Revenue for the purposes of this subsection are satisfied; and those conditions may relate to any one or more of the following—
- (a) the payment,
 - (b) the person making it, and
 - (c) the person receiving it.
- (8) For the purposes of this Chapter a payment (including a payment by way of loan) that has the effect of discharging an obligation under a contract relating to construction operations is to be taken to be made under the contract; and if—
- (a) the obligation is to make a payment to a person (“A”) within paragraph (a) to (c) of subsection (1), but
 - (b) the payment discharging that obligation is made to a person (“B”) not within those paragraphs,
- the payment is for those purposes to be taken to be made to A.

Textual Amendments

F12 S. 60(3A)-(3C) inserted (with effect in accordance with Sch. 1 para. 27 of the amending Act) by Finance Act 2020 (c. 14), **Sch. 1 para. 20** (with Sch. 1 paras. 30-34)

61 Deductions on account of tax from contract payments

- (1) On making a contract payment the contractor (see section 57(3)) must deduct from it a sum equal to the relevant percentage of so much of the payment as is not shown to represent the direct cost to [^{F13}the sub-contractor] of materials used or to be used in carrying out the construction operations to which the contract under which the payment is to be made relates.
- (2) In subsection (1) “the relevant percentage” means such percentage as the Treasury may by order determine.
- (3) That percentage must not exceed—
- (a) if the person for whose labour (or for whose employees' or officers' labour) the payment in question is made is registered for payment under deduction, the percentage which is the basic rate for the year of assessment in which the payment is made, or
 - (b) if that person is not so registered, the percentage which is the higher rate for that year of assessment.
- [^{F14}(4) Subsection (5) applies where the contractor is a person falling within section 59(1)(1).
- (5) An officer of Revenue and Customs may, if the officer considers it appropriate to do so, by notice in writing—
- (a) exempt the contractor from the requirement to deduct sums from contract payments under subsection (1) for a specified period;
 - (b) treat the contractor as if such an exemption had applied in relation to—
 - (i) specified contract payments made before the date of the notice, or
 - (ii) contract payments made during a specified period before the date of the notice.

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- (6) The period referred to in subsection (5)(a)—
- (a) must not exceed 90 days, but
 - (b) may be extended by one or more further notices under subsection (5).
- (7) In subsection (5) “specified” means specified in the notice.]

Textual Amendments

- F13** Words in s. 61(1) substituted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 4](#)
- F14** S. 61(4)-(7) inserted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 5](#)

62 Treatment of sums deducted

- (1) A sum deducted under section 61 from a payment made by a contractor—
- (a) must be paid to the Board of Inland Revenue, and
 - (b) is to be treated for the purposes of income tax or, as the case may be, corporation tax as not diminishing the amount of the payment.
- (2) If the sub-contractor is not a company a sum deducted under section 61 and paid to the Board is to be treated as being income tax paid in respect of the sub-contractor’s relevant profits.

If the sum is more than sufficient to discharge his liability to income tax in respect of those profits, so much of the excess as is required to discharge any liability of his for Class 4 contributions is to be treated as being Class 4 contributions paid in respect of those profits.

- (3) If the sub-contractor is a company—
- (a) a sum deducted under section 61 and paid to the Board is to be treated, in accordance with regulations, as paid on account of any relevant liabilities of the sub-contractor;
 - (b) regulations must provide for the sum to be applied in discharging relevant liabilities of the year of assessment in which the deduction is made;
 - (c) if the amount is more than sufficient to discharge the sub-contractor’s relevant liabilities, the excess may be treated, in accordance with the regulations, as being corporation tax paid in respect of the sub-contractor’s relevant profits; and
 - (d) regulations must provide for the repayment to the sub-contractor of any amount not required for the purposes mentioned in paragraphs (b) and (c).

[^{F15}(3A) Regulations under subsection (3) may include provision authorising an officer of Revenue and Customs to—

- (a) correct an error or omission relating to a set-off claim;
- (b) remove a set-off claim;
- (c) prohibit a person from making a further set-off claim, for a specified period or indefinitely.

(3B) Regulations under subsection (3) that include provision of the kind mentioned in subsection (3A) may, for example, include provision—

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- (a) allowing the things mentioned in subsection (3A)(a) to (c) to be done by amending a return (including a return not made under the regulations) or otherwise;
 - (b) allowing a set-off claim to be removed where the claimant is not eligible to make the claim (including where the claimant is not a company, not a sub-contractor, or is registered for gross payment);
 - (c) requiring information to be given to the Commissioners of Revenue and Customs, at such times as may be specified in the regulations.
- (3C) In subsections (3A) and (3B), “set-off claim” means a claim for treating a sum deducted under section 61 as paid on account of any relevant liabilities.]
- (4) For the purposes of [F16this section] the “relevant liabilities” of a sub-contractor are any liabilities of the sub-contractor, whether arising before or after the deduction is made, to make a payment to the Inland Revenue in pursuance of an obligation as an employer or contractor.
- (5) In this section—
- (a) “the sub-contractor” means the person for whose labour (or for whose employees' or officers' labour) the payment is made;
 - (b) references to the sub-contractor’s “relevant profits” are to the profits from the trade, profession or vocation carried on by him in the course of which the payment was received;
 - (c) “Class 4 contributions” means Class 4 contributions within the meaning of the Social Security Contributions and Benefits Act 1992 (c. 4) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).
- (6) References in this section to regulations are to regulations made by the Board of Inland Revenue.
- (7) Regulations under this section may contain such supplementary, incidental or consequential provision as appears to the Board to be appropriate.

Textual Amendments

F15 S. 62(3A)-(3C) inserted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 6\(2\)](#)

F16 Words in s. 62(4) substituted (6.4.2021 for the tax year 2021-22 and subsequent tax years) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 6\(3\)](#)

Registration of sub-contractors

63 Registration for gross payment or for payment under deduction

- (1) If the Board of Inland Revenue are satisfied, on the application of an individual or a company, that the applicant has provided—
- (a) such documents, records and information as may be required by or in accordance with regulations made by the Board, and
 - (b) such additional documents, records and information as may be required by the Inland Revenue in connection with the application,
- the Board must register the individual or company under this section.

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- (2) If the Board are satisfied that the requirements of subsection (2), (3) or (4) of section 64 are met, the Board must register—
 - (a) the individual or company, or
 - (b) in a case falling within subsection (3) of that section, the individual or company as a partner in the firm in question,for gross payment.
- (3) In any other case, the Board must register the individual or company for payment under deduction.

64 Requirements for registration for gross payment

- (1) This section sets out the requirements (in addition to that in subsection (1) of section 63) for an applicant to be registered for gross payment.
- (2) Where the application is for the registration for gross payment of an individual (otherwise than as a partner in a firm), he must satisfy the conditions in Part 1 of Schedule 11 to this Act.
- (3) Where the application is for the registration for gross payment of an individual or a company as a partner in a firm—
 - (a) the applicant must satisfy the conditions in Part 1 of Schedule 11 to this Act (if an individual) or Part 3 of that Schedule (if a company), and
 - (b) in either case, the firm itself must satisfy the conditions in Part 2 of that Schedule.
- (4) Where the application is for the registration for gross payment of a company (otherwise than as a partner in a firm)—
 - (a) the company must satisfy the conditions in Part 3 of Schedule 11 to this Act, and
 - (b) if the Board of Inland Revenue have given a direction under subsection (5), each of the persons to whom any of the conditions in Part 1 of that Schedule applies in accordance with the direction must satisfy the conditions which so apply to him.
- (5) Where the applicant is a company, the Board may direct that the conditions in Part 1 of Schedule 11 to this Act or such of them as are specified in the direction shall apply to—
 - (a) the directors of the company,
 - (b) if the company is a close company, the persons who are the beneficial owners of shares in the company, or
 - (c) such of those directors or persons as are so specified,as if each of them were an applicant for registration for gross payment.
- (6) See also section 65(1) (power of Board to make direction under subsection (5) on change in control of company applying for registration etc).
- (7) In subsection (5) “director” has the meaning given by section 67 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

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65 Change in control of company registered for gross payment

- (1) Where it appears to the Board of Inland Revenue that there has been a change in the control of a company—
 - (a) registered for gross payment, or
 - (b) applying to be so registered,
 the Board may make a direction under section 64(5).
- (2) The Board may make regulations requiring the furnishing of information with respect to changes in the control of a company—
 - (a) registered for gross payment, or
 - (b) applying to be so registered.
- [^{F17}(3) In this section references to a change in the control of a company are references to such a change determined in accordance with section 995 of the Income Tax Act 2007.]

Textual Amendments

F17 S. 65(3) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 460](#) (with [Sch. 2](#))

Commencement Information

II S. 65(3) has effect as specified by [The Finance Act 2004, Section 77\(1\) and \(7\)](#), ([Appointed Day Order 2006 \(S.I. 2006/3240\)](#)), [art. 2](#)

66 Cancellation of registration for gross payment

- (1) The Board of Inland Revenue may at any time make a determination cancelling a person's registration for gross payment if it appears to them that—
 - (a) if an application to register the person for gross payment were to be made at that time, the Board would refuse so to register him,
 - (b) he has made an incorrect return or provided incorrect information (whether as a contractor or as a sub-contractor) under any provision of this Chapter or of regulations made under it, or
 - (c) he has failed to comply (whether as a contractor or as a sub-contractor) with any such provision.
- (2) Where the Board make a determination under subsection (1), the person's registration for gross payment is cancelled with effect from the end of a prescribed period after the making of the determination (but see section 67(5)).
- (3) The Board of Inland Revenue may at any time make a determination cancelling a person's registration for gross payment if they have reasonable grounds to suspect that the person—
 - (a) became registered for gross payment on the basis of information which was false,
 - (b) has fraudulently made an incorrect return or provided incorrect information (whether as a contractor or as a sub-contractor) under any provision of this Chapter or of regulations made under it, or
 - (c) has knowingly failed to comply (whether as a contractor or as a sub-contractor) with any such provision.

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- (4) Where the Board make a determination under subsection (3), the person’s registration for gross payment is cancelled with immediate effect.
- (5) On making a determination under this section cancelling a person’s registration for gross payment, the Board must without delay give the person notice stating the reasons for the cancellation.
- (6) Where a person’s registration for gross payment is cancelled by virtue of a determination under subsection (1), the person must be registered for payment under deduction.
- (7) Where a person’s registration for gross payment is cancelled by virtue of a determination under subsection (3), the person may, if the Board thinks fit, be registered for payment under deduction.
- (8) A person whose registration for gross payment is cancelled under this section may not, within the period of one year after the cancellation takes effect (see subsections (2) and (4) and section 67(5)), apply for registration for gross payment.
- (9) In this section “a prescribed period” means a period prescribed by regulations made by the Board.

67 Registration for gross payment: appeals

- (1) A person aggrieved by—
 - (a) the refusal of an application for registration for gross payment, or
 - (b) the cancellation of his registration for gross payment,may by notice appeal ^{F18}....
- (2) The notice must be given to the Board of Inland Revenue within 30 days after the refusal or cancellation.
- (3) The notice must state the person’s reasons for believing that—
 - (a) the application should not have been refused, or
 - (b) his registration for gross payment should not have been cancelled.
- (4) The jurisdiction of the [^{F19}tribunal] on such an appeal [^{F20}that is notified to the tribunal] shall include jurisdiction to review any relevant decision taken by the Board of Inland Revenue in the exercise of their functions under section 63, 64, 65 or 66.
- (5) Where a person appeals against the cancellation of his registration for gross payment by virtue of a determination under section 66(1), the cancellation of his registration does not take effect until whichever is the latest of the following—
 - (a) the abandonment of the appeal,
 - (b) the determination of the appeal by the [^{F21}tribunal], or
 - (c) the determination of the appeal by the [^{F22}Upper Tribunal or a court].
- ^{F23}(6)

Textual Amendments

F18 Words in s. 67(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 421\(2\)](#)

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- F19** Word in s. 67(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(3)(a)**
- F20** Words in s. 67(4) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(3)(b)**
- F21** Word in s. 67(5)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(4)(a)**
- F22** Words in s. 67(5)(c) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(4)(b)**
- F23** S. 67(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 421(5)**

68 Registration for payment under deduction: cancellation and appeals

The Board of Inland Revenue may make regulations providing for—

- (a) the cancellation, in such circumstances as may be prescribed by the regulations, of a person's registration for payment under deduction;
- (b) appeals against a refusal to register a person for payment under deduction or the cancellation of such registration.

Verification, returns [^{F24}, security] etc and penalties

Textual Amendments

- F24** Word in [s. 69 cross-heading](#) inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), **s. 82(1)(a)**

69 Verification etc of registration status of sub-contractors

- (1) The Board of Inland Revenue may make regulations requiring persons who make payments under contracts relating to construction operations, except in prescribed circumstances, to verify with the Board whether a person to whom they are proposing to make—
 - (a) a contract payment, or
 - (b) a payment which would be a contract payment but for section 60(4),
 is registered for gross payment or for payment under deduction.
- (2) The provision that may be made by regulations under subsection (1) includes provision—
 - (a) for preventing a person from verifying unless such conditions as may be prescribed have been satisfied;
 - (b) as to the period for which the verification remains valid.
- (3) The Board of Inland Revenue may make regulations requiring the Board to notify persons of a prescribed description who make payments under contracts relating to construction operations that—
 - (a) a person registered for gross payment has become registered for payment under deduction or has ceased to be registered under section 63, or
 - (b) a person registered for payment under deduction has become registered for gross payment or has ceased to be registered under section 63.

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- (4) The provision that may be made by regulations under subsection (1) or (3) includes provision for a person to be entitled to assume, except in prescribed circumstances, that—
- (a) a person verified or notified as being registered for gross payment, or
 - (b) a person verified or notified as being registered for payment under deduction, has not subsequently ceased to be so registered.
- (5) In this section “prescribed” means prescribed by regulations under this section.

70 Periodic returns by contractors etc

- (1) The Board of Inland Revenue may make regulations requiring persons who make payments under construction contracts—
- (a) to make to the Board, at such times and in respect of such periods as may be prescribed, returns relating to such payments;
 - (b) to keep such records as may be prescribed relating to such payments;
 - (c) to provide such information as may be prescribed, at such times as may be prescribed, to persons to whom such payments are made or to such of those persons as are of a prescribed description.
- (2) The provision that may be made by regulations under subsection (1)(a) includes provision requiring, except in such circumstances as may be prescribed,—
- (a) the person making a return to declare in the return that none of the contracts to which the return relates is a contract of employment;
 - (b) the person making a return to declare in the return that, in the case of each person to whom a payment to which the return relates is made, he has complied with the requirements of any regulations made under section 69(1) (verification of registration status);
 - (c) returns to contain such other information and to be in such form as may be prescribed;
 - (d) a return to be made where no payments have been made in the period to which the return relates.
- (3) The Board of Inland Revenue may make regulations with respect to—
- (a) the production, copying and removal of, and the making of extracts from, any records kept by virtue of any such requirement as is referred to in subsection (1)(b), and
 - (b) rights of access to, or copies of, any such records which are removed.
- (4) Regulations under this section may make provision—
- (a) for or in connection with enabling a person who makes payments under construction contracts to appoint another person (a “scheme representative”) to act on his behalf in connection with any requirements imposed on him by regulations under this section, and
 - (b) as to the rights, obligations or liabilities of scheme representatives.
- (5) In this section “prescribed” means prescribed by regulations under this section.

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[^{F25}70A Security for payments to HMRC

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for and in connection with requiring the giving, by prescribed persons and in prescribed circumstances, of security for the payment of amounts that a person is or may be liable to pay to the Commissioners under this Chapter.
- (2) Regulations under this section must provide that security may be required only where an officer of Revenue and Customs considers it necessary for the protection of the revenue.
- (3) Regulations under this section must provide for a right of appeal against—
 - (a) decisions to require security to be given;
 - (b) decisions as to the amount, terms or duration of any security required.
- (4) A person commits an offence if—
 - (a) the person fails to comply with a requirement to give security that is imposed by regulations under this section, and
 - (b) the failure continues for such period as is prescribed.
- (5) A person who commits an offence under subsection (4) is liable on summary conviction—
 - (a) in England and Wales, to a fine;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (6) In this section—

“prescribed” means prescribed in regulations under this section;

“security” includes further security.]

Textual Amendments

F25 S. 70A inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), s. 82(1)(b)

71 Collection and recovery of sums to be deducted

- (1) The Board of Inland Revenue must make regulations with respect to the collection and recovery, whether by assessment or otherwise, of sums required to be deducted from any payments under section 61.
- (2) The regulations may include any matters with respect to which PAYE regulations may be made.
- (3) Interest required to be paid by the regulations—
 - (a) is to be paid without any deduction of income tax, ^{F26}...
 - ^{F26}(b)

Textual Amendments

F26 S. 71(3)(b) and preceding word repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 570, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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[^{F27}72 Penalties

- (1) This section applies in a case within subsection (2), (3) or (4).
- (2) A case is within this subsection if a person (“A”)—
 - (a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or
 - (b) recklessly makes a statement, or furnishes a document, which is false in a material particular,for the purpose of becoming registered for gross payment or for payment under deduction.
- (3) A case is within this subsection if a person (“A”) who exercises influence or control over another person (“B”) or is in a position to do so—
 - (a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or
 - (b) recklessly makes a statement, or furnishes a document, which is false in a material particular,for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.
- (4) A case is within this subsection if a person (“A”) who exercises influence or control over another person (“B”) or is in a position to do so—
 - (a) encourages B to make a statement, or furnish a document, which A knows to be false in a material particular, or
 - (b) encourages B to make a statement or furnish a document—
 - (i) which is false in a material particular, and
 - (ii) where A is reckless as to whether the statement or document is false in a material particular,for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.
- (5) In a case where this section applies, A is liable to a penalty not exceeding £3,000.]

Textual Amendments

F27 S. 72 substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 7](#)

Supplementary

73 Regulations under this Chapter: supplementary

- (1) The Board of Inland Revenue may by regulations make such other provision for giving effect to this Chapter as they consider necessary or expedient.
- (2) The provision that may be made by regulations under subsection (1) includes provision for or in connection with modifying the application of this Chapter in circumstances where—
 - (a) a person acts as the agent of a contractor or sub-contractor;

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- (b) a person's right to payments under a construction contract is assigned or otherwise transferred to another person.
- (3) Regulations under this Chapter may make different provision for different cases.
- (4) Any power under this Chapter to make regulations authorising or requiring a document (whether or not of a particular description), or any records or information, to be given or requested by or to be sent or produced to the Board of Inland Revenue includes power—
- (a) to authorise the Board to nominate a person who is not an officer of the Board to be the person who on behalf of the Board—
 - (i) gives or requests the document, records or information; or
 - (ii) is the recipient of the document, records or information; and
 - (b) to require the document, records or information, in cases prescribed by or determined under the regulations, to be sent or produced to the address (determined in accordance with the regulations) of the person nominated by the Board to receive it on their behalf.

[^{F28}73A Designated international organisations: exemption from section 59

- (1) The Treasury may by order designate for the purposes of this section any international organisation of which the United Kingdom is a member.
- (2) Section 59 does not apply to an organisation which is so designated.]

Textual Amendments

F28 S. 73A inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 461](#) (with [Sch. 2](#))

74 Meaning of “construction operations”

- (1) In this Chapter “construction operations” means operations of a description specified in subsection (2), not being operations of a description specified in subsection (3); and references to construction operations—
 - (a) except where the context otherwise requires, include references to the work of individuals participating in the carrying out of such operations; and
 - (b) do not include references to operations carried out or to be carried out otherwise than in the United Kingdom (or the territorial sea of the United Kingdom).
- (2) The following operations are, subject to subsection (3), construction operations for the purposes of this Chapter—
 - (a) construction, alteration, repair, extension, demolition or dismantling of buildings or structures (whether permanent or not), including offshore installations;
 - (b) construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including (in particular) walls, roadworks, power-lines, electronic communications apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipe-lines, reservoirs, water-mains,

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- wells, sewers, industrial plant and installations for purposes of land drainage, coast protection or defence;
- (c) installation in any building or structure of systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection;
 - (d) internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, repair, extension or restoration;
 - (e) painting or decorating the internal or external surfaces of any building or structure;
 - (f) operations which form an integral part of, or are preparatory to, or are for rendering complete, such operations as are previously described in this subsection, including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works.
- (3) The following operations are not construction operations for the purposes of this Chapter—
- (a) drilling for, or extraction of, oil or natural gas;
 - (b) extraction (whether by underground or surface working) of minerals and tunnelling or boring, or construction of underground works, for this purpose;
 - (c) manufacture of building or engineering components or equipment, materials, plant or machinery, or delivery of any of these things to site;
 - (d) manufacture of components for systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or delivery of any of these things to site;
 - (e) the professional work of architects or surveyors, or of consultants in building, engineering, interior or exterior decoration or in the laying-out of landscape;
 - (f) the making, installation and repair of artistic works, being sculptures, murals and other works which are wholly artistic in nature;
 - (g) signwriting and erecting, installing and repairing signboards and advertisements;
 - (h) the installation of seating, blinds and shutters;
 - (i) the installation of security systems, including burglar alarms, closed circuit television and public address systems.
- (4) The Treasury may by order made by statutory instrument amend either or both of subsections (2) and (3) by—
- (a) adding,
 - (b) varying, or
 - (c) removing,
- any description of operations.
- (5) No statutory instrument containing an order under subsection (4) shall be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.

75 Meaning of “the Inland Revenue” etc and delegation of Board’s functions

- (1) In this Chapter “the Inland Revenue” means any officer of the Board of Inland Revenue.

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- (2) In this Chapter “the Board of Inland Revenue” means the Commissioners of Inland Revenue (as to which, see in particular the Inland Revenue Regulation Act 1890 (c. 21)).
- (3) The Board of Inland Revenue may make regulations providing for any of the following to be done on behalf of the Board—
 - (a) the registration of persons under section 63;
 - (b) the giving of directions under section 64(5); and
 - (c) the cancellation under section 66 of a person’s registration for gross payment.

76 Consequential amendments

Schedule 12 to this Act (which makes consequential amendments) has effect.

77 Commencement and transitional provision

- (1) This Chapter has effect in relation to payments made on or after the appointed day under contracts relating to construction operations.
- (2) Where a certificate issued to a person under section 561 of the Taxes Act 1988 is in force immediately before the appointed day, the person is to be treated as if, on the appointed day, the Board of Inland Revenue had registered him for gross payment.
- (3) Where a registration card issued to a person in accordance with regulations made under section 566(2A) of the Taxes Act 1988 is in force immediately before the appointed day, the person is to be treated as if, on the appointed day, the Board of Inland Revenue had registered him for payment under deduction.
- (4) Subsection (5) applies in relation to the first payment (“the relevant payment”) made after the appointed day by a person (“C”) to a sub-contractor (“SC”) under a contract relating to construction operations if—
 - (a) before the appointed day, C had made one or more payments to SC under the contract or another such contract,
 - (b) the last of those payments (“the last payment”) was made in the year of assessment in which the relevant payment was made or in either of the two years of assessment before that,
 - (c) at the time of the last payment—
 - (i) a certificate issued to SC under section 561 of the Taxes Act 1988 was in force, or
 - (ii) a registration card issued to SC in accordance with regulations made under section 566(2A) of that Act was in force, and
 - (d) on making the relevant payment, C has no reason to believe that SC—
 - (i) did not become registered for gross payment or (as the case may be) for payment under deduction by virtue of subsection (2) or (3), and
 - (ii) is not still so registered.
- (5) Where this subsection applies, regulations under section 69(1) shall not require C, before making the relevant payment, to verify whether SC is registered for gross payment or for payment under deduction.
- (6) Where subsection (5) applies, C shall be entitled to assume, on making any further payments to SC under a contract relating to construction operations, that SC has not

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subsequently ceased to be so registered, unless notified to the contrary in accordance with regulations made under section 69(3).

- (7) In this section “the appointed day” means such day as the Treasury may by order appoint.
- (8) The Treasury may by order make such further supplemental and transitional provision and savings as they think fit in connection with the coming into effect of this Chapter.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 166(1)(aa) inserted by 2024 c. 3 Sch. 9 para. 17(2)(a)
- s. 204(3) inserted by 2024 c. 3 Sch. 9 para. 2
- s. 232(8E) inserted by 2024 c. 3 Sch. 9 para. 4(4)
- s. 236(8E) inserted by 2024 c. 3 Sch. 9 para. 5(4)
- s. 236ZA inserted by S.I. 2024/357 art. 2(2)
- s. 244G(5) inserted by 2024 c. 3 Sch. 9 para. 51(4)
- s. 244J(1A) inserted by 2024 c. 3 Sch. 9 para. 55(2)
- s. 244K(1A) substituted for s. 244K(1) by 2024 c. 3 Sch. 9 para. 57(3)
- s. 244K(3A) inserted by 2024 c. 3 Sch. 9 para. 57(6)
- s. 244K(7A)(7B) inserted by S.I. 2024/356 reg. 3(5)
- s. 244AA-244AC substituted for s. 244A by 2024 c. 3 Sch. 9 para. 45
- s. 244IA-244IC inserted by 2024 c. 3 Sch. 9 para. 54
- s. 244ID inserted by S.I. 2024/356 reg. 3(2)
- s. 244JA inserted by 2024 c. 3 Sch. 9 para. 56
- s. 256(1)(g)-(i) inserted by 2024 c. 3 Sch. 9 para. 100(3)(e)
- s. 278A278B inserted by 2024 c. 3 Sch. 9 para. 23
- Sch. 11 para. 4(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(a)(ii)
- Sch. 11 para. 8(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(b)(ii)
- Sch. 11 para. 12(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(c)(ii)
- Sch. 29 para. 3B inserted by 2024 c. 3 Sch. 9 para. 26(8)
- Sch. 29 para. 3C and cross-heading inserted by 2024 c. 3 Sch. 9 para. 26(9)
- Sch. 29 para. 12A inserted by 2024 c. 3 Sch. 9 para. 36
- Sch. 29 para. 4A(8) inserted by 2024 c. 3 Sch. 9 para. 63(4)
- Sch. 29 para. 3C(2) omitted by S.I. 2024/356 reg. 3(10)(b)
- Sch. 29 para. 3C(3) omitted by S.I. 2024/356 reg. 3(10)(b)
- Sch. 29 para. 3C(5)(b) and word omitted by S.I. 2024/356 reg. 3(10)(c)(ii)
- Sch. 29 para. 2A-2D substituted for Sch. 29 para. 3 by 2024 c. 3 Sch. 9 para. 26(5)
- Sch. 29 para. 13(1)(d) word inserted by 2024 c. 3 Sch. 9 para. 37(2)
- Sch. 29 para. 3C(1)(b) words inserted by S.I. 2024/356 reg. 3(10)(a)
- Sch. 29 para. 3C(5)(a) words inserted by S.I. 2024/356 reg. 3(10)(c)(i)
- Sch. 29 para. 13(1)(d) words omitted by 2024 c. 3 Sch. 9 para. 37(3)
- Sch. 32 para. A1A2 and cross-headings inserted by 2024 c. 3 Sch. 9 para. 13(4)
- Sch. 33 para. 4(4) inserted by 2024 c. 3 Sch. 9 para. 59(2)(b)
- Sch. 33 para. 5(6) inserted by 2024 c. 3 Sch. 9 para. 59(3)(c)
- Sch. 33 para. 4(1)(d) word inserted by 2024 c. 3 Sch. 9 para. 59(2)(a)
- Sch. 34 para. 5ZA inserted by 2024 c. 3 Sch. 9 para. 60(3)
- Sch. 34 para. 12A and cross-heading inserted by 2024 c. 3 Sch. 9 para. 64(3)
- Sch. 36 para. 6A and cross-heading inserted by 2024 c. 3 Sch. 9 para. 67
- Sch. 36 para. 11(5) inserted by 2024 c. 3 Sch. 9 para. 69(5)
- Sch. 36 para. 11A(5) inserted by 2024 c. 3 Sch. 9 para. 70(4)
- Sch. 36 para. 15(2A) inserted by 2024 c. 3 Sch. 9 para. 73(3)
- Sch. 36 para. 19(1A)(1B) inserted by 2024 c. 3 Sch. 9 para. 76(3)
- Sch. 36 para. 19(7) inserted by 2024 c. 3 Sch. 9 para. 76(7)
- Sch. 36 para. 20(1)(b) and word inserted by 2024 c. 3 Sch. 9 para. 77(2)(b)
- Sch. 36 para. 20(1A) inserted by 2024 c. 3 Sch. 9 para. 77(3)
- Sch. 36 para. 20A-20G and cross-headings inserted by 2024 c. 3 Sch. 9 para. 78
- Sch. 36 para. 29A inserted by 2024 c. 3 Sch. 9 para. 85
- Sch. 36 para. 29A omitted by S.I. 2024/356 reg. 3(14)

- Sch. 36 para. 12(3A)-(3H) substituted for Sch. 36 para. 12(3) by [2024 c. 3 Sch. 9 para. 71\(2\)](#)
- Sch. 36 para. 19(2)(2A) substituted for Sch. 36 para. 19(2) by [2024 c. 3 Sch. 9 para. 76\(4\)](#)
- Sch. 36 para. 20(1)(a) words in Sch. 36 para. 20(1) renumbered as Sch. 36 para. 20(1)(a) by [2024 c. 3 Sch. 9 para. 77\(2\)\(a\)](#)