

# The New Construction Industry Scheme

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The Scheme, which was introduced by the Finance Act 2004, was brought into force on 6 April 2007. It proceeds new rules for how payments to sub-contractors for construction work are to be handled by contractors within the construction industry. For the purposes of the scheme both contractor and sub-contractor have a wider meaning than normally used in the construction industry.

Under the scheme payments made by contractors to sub-contractors must take account of the tax status of the sub-contractor as determined by HMRC. Payments to the subcontractor will then be made gross or with a deduction, which the contractor will pay directly to HMRC. It should be noted that the CIS does not apply to contracts of employment and that certain elements of any payment will be excluded from the amount used to calculate the deduction.

## Implications of the CIS for Contractors

All contractors must register with HMRC for the CIS prior to entering into a contract with their first sub contractor. Prior to taking on a sub-contractor the contractor should verify the sub-contractor's status with HMRC in order to determine the deduction to be made. The sub-contractor should be provided with a payment and deduction statement with each payment. Each month the contractor should then submit a return detailing any payments made under the CIS.

## Implications of the CIS for Sub-Contractors

All sub-contractors should register with HMRC for the CIS prior to starting work for the first time in the construction industry. Deductions can be made at the standard rate (20%) for sub-contractors who are registered for the scheme or the higher rate (30%) for sub-contractors who have not registered. It is therefore advisable for sub-contractors to register. Sub-contractors can also apply to HMRC to have the payments made gross provided certain conditions are met.

Failure to comply with the requirements such as failure to submit a monthly return, failure to produce records when requested to do so or failure to provide sub-contractors with a monthly statement of payment and deduction of the CIS can result in severe penalties. Penalties apply across the scheme and can result in a monetary penalty from £100 to £3,000 to 100% of the undeducted or undeclared deductions.

This item is a brief outline of the legal issues arising and is not intended to provide a comprehensive or detailed statement of the law. Specific legal advice should be sought on the circumstances of a particular case.

*Please note: The content of this article is for information purposes only and further advice should be sought from a professional advisor before any action is taken.*