



# Finance Act 2004

## 2004 CHAPTER 12

### PART 3

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 3

#### CONSTRUCTION INDUSTRY SCHEME

##### *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.
- (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.

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#### **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).

#### **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.
- (3) Section 840 of the Taxes Act 1988 (control) applies for the purposes of this section.

## **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.
- (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,

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may by notice appeal to the General Commissioners or, if the person so elects in the notice, to the Special Commissioners.

- (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 Commissioners on such an appeal 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 Commissioners, or
  - (c) the determination of the appeal by the appropriate court.
- (6) In this section “the appropriate court” means—
  - (a) in relation to England and Wales, the High Court;
  - (b) in relation to Scotland, the Court of Session, as the Court of Exchequer in Scotland;
  - (c) in relation to Northern Ireland, the Court of Appeal in Northern Ireland.

## **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.