
STATUTORY INSTRUMENTS

2005 No. 2045

The Income Tax (Construction Industry Scheme) Regulations 2005

PART 3

PAYMENT AND RECOVERY OF AMOUNTS DEDUCTED UNDER SECTION 61

Determination of amounts payable by contractor and appeal against determination

13.—(1) This regulation applies if—

- (a) there is a dispute between a contractor and a sub-contractor as to—
 - (i) whether a payment is made under a construction contract, or
 - (ii) the amount, if any, deductible by the contractor under section 61 of the Act from a contract payment to a sub-contractor or his nominee, or
- (b) an officer of Revenue and Customs has reason to believe, as a result of an inspection under regulation 51 or otherwise, that there may be an amount payable for a tax year under these Regulations by a contractor that has not been paid to them, or
- (c) an officer of Revenue and Customs considers it necessary in the circumstances.

(2) An officer of Revenue and Customs may determine the amount which to the best of his judgment a contractor is liable to pay under these Regulations, and serve notice of his determination on the contractor.

(3) A determination under this regulation must not include amounts in respect of which a direction under regulation 9(5) has been made and directions under that regulation do not apply to amounts determined under this regulation.

(4) A determination under this regulation may—

- (a) cover the amount payable by the contractor under section 61 of the Act for any one or more tax periods in a tax year, and
- (b) extend to the whole of that amount, or to such part of it as is payable in respect of—
 - (i) a class or classes of sub-contractors specified in the notice of determination (without naming the individual sub-contractors), or
 - (ii) one or more named sub-contractors specified in the notice.

(5) A determination under this regulation is subject to Parts 4, 5 and 6 of TMA (assessment, appeals, collection and recovery) as if—

- (a) the determination were an assessment, and
- (b) the amount determined were income tax charged on the contractor,

and those Parts of that Act apply accordingly with any necessary modifications, except that the amount determined is due and payable 14 days after the determination is made.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) If paragraph (1)(a) applies and an officer of Revenue and Customs does not make a determination under paragraph (2), either the contractor or the sub-contractor may on giving notice to an officer of Revenue and Customs, apply to the General Commissioners to determine the matter.

(7) For the purposes of paragraph 3(1)(a) of Schedule 3 to TMA(1) (rules for assigning proceedings to General Commissioners), the relevant place for an appeal against a determination under this regulation is the place where the determination was made.

(8) If paragraph (1)(a) applies—

- (a) the contractor must make the deduction required by section 61 of the Act from the contract payment or the part of the contract payment, to which the dispute relates, and the amount so deducted is treated as a sum which he is liable to pay to the Commissioners for Her Majesty's Revenue and Customs under these Regulations; and
- (b) any amount which, on a final determination of the dispute, is shown not to have been so payable is, except where regulation 56 (application by the Commissioners for Her Majesty's Revenue and Customs of sums deducted under section 61 of the Act) applies, treated as an overpayment of income tax or corporation tax by the sub-contractor.

(1) Schedule 3 was substituted by paragraph 10 of Schedule 22 to the Finance Act 1996 (c. 8) and paragraph 3 of Schedule 3 was amended by paragraph 142 of Schedule 6 to ITEPA.