Construction Industry Scheme: landlord contributions to tenant works

Employment Tax | Large Corporate | OMB

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HMRC are asking for evidence of the problems in practice with the Construction Industry Scheme when landlords make payments to tenants carrying out construction works to finish a building or fit it out to their own specification, a practice that is increasingly common.

The Construction Industry Scheme (CIS) requires a contractor to withhold tax from payments to subcontractors for certain construction work. The scope of CIS means that it may extend to landlords making payments to tenants who are carrying out construction works to finish a building or to fit it out to their own specification, a practice that is increasingly common.

The tenant either has to register for the CIS as a subcontractor or receive the payment under deduction of tax and claim it back from HMRC. Typically, tenants are not physically carrying out the works themselves but rather sub-contracting works to third party contractors. At the latter stage, the CIS rules operate as intended to capture actual construction operations. It is the application of CIS between tenant and landlord for the same works that adds administrative costs, affects cash flow and comes as a surprise to start-up businesses and businesses expanding into the UK as they will not have a trading history to allow them to register under CIS.

The CIOT's Property Taxes Committee engagement with HMRC on this issue has been ongoing since early 2017.

The issue is now being reconsidered by HMRC's Construction Forum (see tinyurl.com/4zuzacj9). HMRC have requested that current evidence is provided of the issues in practice in order to assess the case for change, and, if the evidence

points that way, to put the case to ministers.

Please could members send examples of recent experiences where the operation of the CIS scheme in this context has caused administrative burdens and costs, ideally with some approximate quantification of those costs.

Please send this evidence to Kate Willis (kwillis@ciot.org.uk) and copying in the co-chair of the Construction Forum, Justine Riccomini Head of Taxation (Scottish Taxes, Employment & ICAS Tax Community) (jriccomini@icas.com).