Simplifying the Construction Industry Scheme

Large Corporate | Indirect Tax | Employment Tax | Property Tax



22 August 2023

The CIOT responded to the recent consultation that looks at simplification of the Construction Industry Scheme and adding VAT to the statutory compliance test for gross payment status.

The consultation considered three proposals.

Adding VAT to the list of taxes for the statutory compliance test for the granting or retaining of gross payment status for the Construction Industry Scheme (CIS)

We agree that the gross payment status test will be strengthened by including VAT. However, we are very concerned to ensure that genuine and minor VAT errors or delays should not exclude an applicant from gross payment status or remove existing gross payment status; and that existing safeguards for direct taxes in the

current compliance test should also apply for VAT. We noted that loss of gross payment status has significant cash flow implications for businesses, particularly for smaller businesses operating on narrow profit margins.

Excluding payments made by landlords to prospective tenants to carry out construction works from the CIS

Landlords often make payments to tenants in non-construction sectors such as hospitality, retail or tech who are carrying out construction works to finish or to fit out a building to their own specification. If the works fall within the CIS (and whether they do is far from clear), the tenant either must register for the CIS as a sub-contractor or receive the payment under deduction of tax and claim it back from HMRC. Tenants rarely or never carry out the works themselves but rather sub-contract works to third-party contractors. At that 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 legal and administrative costs, reducing productivity. It also adversely affects cash flow for start-up businesses or inward bound businesses that may not have sufficient payroll costs to offset the CIS deduction.

The CIOT originally raised this issue in a proactive submission in 2017. We were therefore pleased to see it in this consultation.

We consider that landlord to tenant payments should be wholly outside the scope of CIS, provided they properly derive from the landlord /tenant relationship, and that any potential for abuse is evaluated and proportionately addressed.

We evaluated the proposed solutions that were put forward in the consultation. Extending the scope of the existing exemption from CIS for deemed contractors for construction work on a property that they use for their own business (found in Regulation 22 (The Income Tax (Construction Industry Scheme) Regulations 2005) has the advantage of achieving change relatively quickly when compared to change via primary legislation. If adopted, it will be important to allow time for appropriate consultation on the revised draft regulation to ensure it addresses the issue comprehensively.

Introduce a grouping arrangement for CIS

We agree that a non-mandatory grouping arrangement is the best solution to the issue of infrequent and disparate payments by multiple group companies in the property. We suggest that the filing and payment obligation should rest with one representative group member, while the legal obligation should remain with each group company, to ensure HMRC have access to individual company records to check compliance, together with joint and several liability for all group members.

The full CIOT response can be found here: www.tax.org.uk/ref1131.

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