

What is the construction industry scheme (CIS)?

The CIS is a set of special rules for tax and national insurance (NI) for those working in the construction industry. Businesses in the construction industry are known as 'contractors' and 'subcontractors'.

The scheme applies mainly to contractors and sub-contractors involved in construction however, certain businesses that are not in the business of construction but have a significant amount of annual spend may also count as contractors.

Who does CIS apply to?

Types of work and business structures covered by CIS

The CIS can apply to all types of businesses that work in the construction industry in the UK.

This includes:

- self-employed individuals working as sole traders
- partnerships
- companies
- limited liability partnerships (LLPs)

As well as traditional construction businesses like builders, the scheme can also apply to businesses like:

- labour agencies and staff bureaux
- gangmasters - or gang leaders
- property developers

Definition of construction work

CIS covers construction operations carried out in the UK. The rules of the scheme define the types of work that are classed construction operations. But as a general rule, the scheme includes almost any work that's done to a:

- permanent building
- temporary structure
- civil engineering work or installation
- Some examples of the types of construction work that are covered by the scheme include jobs like:
- site preparation
- general construction - bricklaying, roofing, plastering and so on
- alterations and extensions
- repairs and refurbishment
- decorating
- dismantling work
- demolition

The scheme defines 'construction' as a term with a broad meaning that includes:

- building things
- making things
- putting things together
- assembling things

HMRC for example define assembling prefabricated units and site facilities off-site as construction work.

Who is a contractor?

A contractor is a business, or other concern, that pays subcontractors for construction work including:

- Businesses that carry out construction operations;
- Any property developers or speculative builders, erecting and altering buildings to make a profit;
- Gang leaders organising labour for construction work.

Deemed contractors are those concerns that carry out construction work on their own premises or investment properties and whose average annual expenditure in the period of 3 years, ending with their last accounting period, exceeds £1 million.

Ordinary householders having work done on their own properties or building a new house are not considered contractors

Who is a subcontractor?

A subcontractor is a business that carries out construction work for a contractor. It can include an agency if a worker carries out construction operations under the terms of the contract they have with the agency. This is not the case if the agency merely introduces the worker to the contractor.

Subcontractors also need to register with HMRC and should keep HMRC informed of any changes in their business (including changes to the structure, address, business name, partners etc).

Monthly returns

Contractors have to make a monthly return to HMRC:

- confirming that the employment status of subcontractors has been considered
- confirming that the verification process has been correctly dealt with
- detailing payments made to all subcontractors and
- detailing any deductions of tax made from those payments.

Online filing of monthly returns is compulsory. The monthly return relates to each tax month (i.e. running from the 6th of one month to the 5th of the next). The deadline for submission is 14 days after the end of the tax month. Even if no subcontractors have been paid during a month, contractors still have to make a nil return. All contractors are obliged to file monthly even if they are entitled to pay their PAYE quarterly.

Penalties

The penalties for late submission of CIS contractor monthly returns are as follows:

Initial failure to meet due date

If a return is not received by HMRC by its due date of the 19th of the month, a penalty of £100 will be charged.

Return still outstanding two months after due date

If the return has still not been received by HMRC two months after its due date, a further penalty of £200 will be charged.

Return still outstanding six months after due date

If the return is still outstanding six months after its due date, a 'tax-gearred' penalty becomes due. This penalty is the greater of 5% of any deductions shown on the outstanding return or £300.

Return still outstanding twelve months after due date

If the return is still outstanding twelve months after its due date, a second 'tax geared' penalty will become due based on the reason why HMRC determines the return is late.

VAT reverse charge construction industry

A change to the VAT rules will come into effect from 1 October 2019. This change will make the supply of construction services between construction or building businesses subject to the domestic reverse charge. The reverse charge will only apply to supplies of specified construction services to other businesses in the construction sector.

This move is part of the government's measures to combat what is known as missing trader fraud in the construction sector, where VAT due to HMRC is never paid by the subcontractor. Using the reverse charge procedure changes the usual VAT treatment so that the customer is liable to account for the VAT due rather than the supplier. This will place the onus for dealing with the VAT charge due on subcontractors' bills to the main contractor.

There is no overall VAT cost to the customer, who adds the output tax due on a subcontractor's supply and then claims back the same amount as input tax on the same VAT return. It will however, present a few challenges for dealing with the administration of the reverse charge process. The most effective way to accommodate the change is to adapt accounting software to deal with the required entries. We can help if required.

The new reverse charge will be most relevant to sub-contractors and contractors carrying out supplies reported through the CIS. These changes will affect some 100,000 to 150,000 businesses in this sector, including many small businesses.