

Building and Trades Contractor Requirements and Gross Certification

The Inland Revenue operates a Construction Industry Scheme (CIS) which is primarily targeted at the self employed within the construction industry, but can also cover companies and partnerships.

The contractor is the individual, partnership or company employing, and as such has a number of requirements placed upon them. Private householders are NOT contractors if they are having work done on their own premises.

The whole scheme was overhauled in April 2007 and more information can be found at:

<http://www.hmrc.gov.uk/cis/index.htm>

If the sub contractor is not registered for gross payments they will have tax deducted at 20% of the value of the labour element of the invoice presented.

A subcontractor will only receive Gross payment if three tests have been passed.

1. Business Test.

- The business carries out construction work - or provides labour for construction work - in the UK
- The business is run largely through a bank account

2. Turnover test

- Net of VAT and the cost of materials, the construction turnover must be at least:
- £30,000 if a sole-trader
- £30,000 for each partner in a partnership, or at least £200,000 for the whole partnership
- £30,000 for each director of a company, or at least £200,000 for the whole company
- If five people or fewer control the company, it must have an annual construction turnover of at least £30,000 for each of these individuals.

3. Compliance test

- The directors or partners in the business, or beneficial shareholders (where the company is controlled by five or fewer persons) must have submitted all tax returns and paid all tax due on time in the 12 months before the application. In addition if HMRC has asked for data within that period, the business must have complied.

There are a limited number of lapses or late payments allowed in the 12 month period and HMRC will ignore any, or all, of the following failures:

- Three late submissions of the CIS contractor monthly return, including 'nil' returns - up to 28 days late
- Three late payments of CIS/PAYE deductions - up to 14 days late
- One late payment of Self Assessment tax - up to 28 days late
- Any employer's end of year return made late
- Any late payment of Corporation Tax - up to 28 days late, including where any shortfall in the payment has incurred an interest charge but no penalty
- Any Self Assessment return made late
- Any payment not made by the due date, where it is less than £100
- If HMRC agree that you can be paid gross, you must declare your payments in your tax return at the end of the tax year.

New businesses can only apply using the 12 month test after a minimum of 12 months has elapsed, prior to that a standard registration is necessary.

When the Inland Revenue is satisfied that a GrossTax Certificate is applicable a letter will be issued to the primary operator which is then used for all verification purposes.

The letter must be seen by a contractor before works commences, and copies of the details have to be kept on file. Payment slips can be issued monthly, or if the contractor requires it, the slips can be issued per invoice.

All the latest forms can be downloaded from HMRCs website at

<http://www.hmrc.gov.uk/manuals/cisrmanual/CISR96020.htm>