

**EXPLANATORY MEMORANDUM TO  
THE INCOME TAX (CONSTRUCTION INDUSTRY SCHEME) (AMENDMENT)  
REGULATIONS 2008**

**2008 No. 740**

**1.** This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty. This memorandum contains information for the Select Committee on Statutory Instruments.

**2. Description**

This instrument amends the Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045; "the CIS Regulations") to enable HMRC to specify, certify, charge interest on and enforce a single amount of contractor debt without having to separately identify deductions due under section 61 of the Finance Act 2004 ("CIS deductions").

**3. Matters of special interest to the Select Committee on Statutory Instruments**

None

**4. Legislative Background**

- 4.1 Regulation 11 of the CIS Regulations applies where a contractor fails to pay on time the total amount of CIS deductions due to HMRC. The regulation enables HMRC to specify an amount of CIS deductions having regard to the contractor's past payments of CIS deductions and the amount specified is treated as the amount legally due to HMRC. The amendments will allow HMRC to specify a "combined amount" of CIS deductions, together with any PAYE, National Insurance contributions or student loan repayments.
- 4.2 Regulation 16 of the CIS Regulations provides for the recovery of CIS deductions and interest, including CIS deductions specified under regulation 11 and any attendant interest. The amendments will enable HMRC to recover a combined amount.
- 4.3 Regulation 57 of the CIS Regulations includes provisions regarding the certification of a contractor's debt, including that specified under regulation 11 and attendant interest. The amendments will enable HMRC to certify a combined amount of which CIS deductions comprise only one element and certify the interest on a combined amount.
- 4.4 Amendments mirroring those being made here are also shortly to be made to the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2005/2682), by the Income Tax (Pay As You Earn)(Amendment) Regulations 2008, and have already been made to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004), by the Social Security (Contributions)(Amendment No.3) Regulations 2008.
- 4.5 Also, the Department for Innovation, Universities and Skills will in due course make corresponding changes to the Education (Student Loans)(Repayment) Regulations 2000, which provide for employers to account to HMRC for deductions made in respect of repayments of student loans. Similar amendments will be made to the

Education (Student Loans)(Repayment) Regulations (Northern Ireland) 2000 by the Department for Employment and Learning.

## **5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 HMRC has concluded that requiring contractors and employers to provide an itemised payslip with their monthly remittances of tax (including CIS deductions) and earnings-related contributions is an unnecessary burden. Sums remitted during the current tax year are only reconciled to the constituent components of CIS deductions, income tax, National Insurance contributions etc. at the end of the year on receipt of contractors' final monthly returns (and employers' annual returns). Until then, only the total sum due is important.
- 7.2 The changes made by these Regulations will be relevant where a contractor is also an employer and has an obligation to pay income tax (PAYE), National Insurance contributions or repayments of student loans to HMRC. There remains a requirement for HMRC to specify a single amount of debt having regard to a contractor's previous payments. But, in arriving at the specified single amount, HMRC will only need to have regard to the total monthly payments, as opposed to just the CIS deductions element.
- 7.3 These amendments ensure that where a single amount is returned on a payslip (without a breakdown of the constituent parts) HMRC will be able to specify, certify and enforce a single amount of current year debt. The need for this change was raised in HMRC's January 2008 consultation document: *Modernising Powers, Deterrents and Safeguards: Payments, Repayments and Debt*. This is available on the HMRC website.

## **8. Impact**

An impact assessment has not been prepared for this instrument as no impact on the private or voluntary sectors is foreseen.

## **9. Contact**

Robin Wythes HM Revenue & Customs, Tel: 020 7147 2511 or e-mail: Robin.Wythes@hmrc.gsi.gov.uk can answer any queries regarding these Regulations.