

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT INCOME TAX (CONSTRUCTION INDUSTRY SCHEME) (AMENDMENT OF SCHEDULE 11 TO THE FINANCE ACT 2004) ORDER 2016

Tuesday 8 March 2016

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Saturday 12 March 2016

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IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chair: NADINE DORRIES

† Burns, Conor (<i>Bournemouth West</i>) (Con)	Reeves, Rachel (<i>Leeds West</i>) (Lab)
Creagh, Mary (<i>Wakefield</i>) (Lab)	† Shah, Naz (<i>Bradford West</i>) (Lab)
† Gauke, Mr David (<i>Financial Secretary to the Treasury</i>)	† Smith, Mr Andrew (<i>Oxford East</i>) (Lab)
Grant, Mrs Helen (<i>Maidstone and The Weald</i>) (Con)	† Stevenson, John (<i>Carlisle</i>) (Con)
† McGinn, Conor (<i>St Helens North</i>) (Lab)	† Stewart, Bob (<i>Beckenham</i>) (Con)
† Marris, Rob (<i>Wolverhampton South West</i>) (Lab)	† Stride, Mel (<i>Lord Commissioner of Her Majesty's Treasury</i>)
† Merriman, Huw (<i>Bexhill and Battle</i>) (Con)	† Wood, Mike (<i>Dudley South</i>) (Con)
† Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con)	Marek Kubala, <i>Committee Clerk</i>
† Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP)	† attended the Committee
† Paterson, Mr Owen (<i>North Shropshire</i>) (Con)	

The following also attended (Standing Order No. 118(2)):

Allen, Heidi (*South Cambridgeshire*) (Con)

Third Delegated Legislation Committee

Tuesday 8 March 2016

[NADINE DORRIES *in the Chair*]

Draft Income Tax (Construction Industry Scheme) (Amendment of Schedule 11 to the Finance Act 2004) Order 2016

2.30 pm

The Financial Secretary to the Treasury (Mr David Gauke): I beg to move,

That the Committee has considered the draft Income Tax (Construction Industry Scheme) (Amendment of Schedule 11 to the Finance Act 2004) Order 2016.

It is a great pleasure to serve under your chairmanship, Ms Dorries. We are considering an order that deals with subcontractors in the construction industry scheme. Members may know that it is a withholding regime that applies to the construction sector. The order requires the approval of the Committee and will apply from 6 April 2016.

As Members may know, the majority of subcontractors in the construction industry can be paid only after their contractors have made a deduction from their payment on account of their annual tax liability. Under the existing rules of the construction industry scheme, set out in sections 57 to 77 of the Finance Act 2004 and the Income Tax (Construction Industry Scheme) Regulations 2005, subcontractors who meet certain qualifying conditions can apply to be paid gross. Therefore, they do not have a withholding deduction taken from their payments.

Gross payment status helps businesses to improve their cash flow and reduces their administrative burdens. Some 82,000 subcontractor businesses are entitled to be paid gross in that way. To qualify to be paid gross, subcontractors must pass three tests that are set out in law: the business test, where the subcontractor must show that they are running a business that includes or consists of construction operations; the turnover test, where the subcontractor must show that their business has a minimum turnover as set out in law; and the compliance test, where the subcontractor must show that they have complied with their tax obligations to Her Majesty's Revenue and Customs over the previous 12 months. If the subcontractor qualifies for gross payment status, HMRC will tell the subcontractor and all the contractors they work for that the subcontractor can now be paid without deduction. Gross payment status is kept under annual review and can be taken away if the subcontractor does not keep to their tax obligations.

In 2014, the Government held discussions with the industry and published a formal consultation on improving the administration of the scheme. That was well received and generated 43 responses, mostly in favour of the outlined changes. As a consequence, the Government now propose to relax the compliance test for gross payment status. At present, a subcontractor needs to show good compliance across a wide range of tax

obligations. From April 2016, a subcontractor will need to meet only three specific obligations within the compliance test. They will need to file any contractor returns on time where they also have subcontractors of their own; pay any monthly liabilities to HMRC as a contractor or employer in their own right; and file their self-assessment or corporation tax return on time. Those changes will make it simpler for subcontractors to achieve gross payment status. They contribute to the Government's vision for a tax system that is simple to understand and easy to comply with. I hope those explanations are helpful to the Committee. In conclusion, I commend the order to the Committee, and I am happy to answer any questions that right hon. and hon. Members may have on its provisions.

2.34 pm

Rob Marris (Wolverhampton South West) (Lab): It is a pleasure to appear before you, Ms Dorries—it is a pleasure I have not previously had.

Naturally, Labour shares the Government's goals of reducing unnecessary administrative burdens on business and of helping small businesses, and they are the focus of the order. I look around the room, and one or two of my hon. Friends are old enough to remember the lump in the construction industry that existed when I entered the labour force. We then had the 1971 construction industry tax deduction scheme. I did not remember the dates, so I looked them up, but from April 1977, we had the old 714 certificates, the 715 vouchers and SC60s and so on. I remember learning about them in law school. We then had the construction industry scheme, which today's order seeks to amend and which began in August 1999.

At that point, the turnover threshold was £30,000, as the Minister will remember. The scheme was then reformed. The reforms took some time to come through, but they began in April 2007, so here we are almost nine years on making another amendment. The Minister will be relieved to hear that, as part of the research that my excellent researcher, Imogen Watson, and I undertook we spoke to the Union of Construction, Allied Trades and Technicians—UCATT—which does not have concerns about the instrument, and that shortened the research time I felt it necessary to spend on the instrument.

I understand that the statutory instrument is one of a series of five or possibly six. It seems to be the fifth in a list in the tax impact note of 10 December 2014, although it is the fourth to be passed. I gather that there will be another statutory instrument that reduces the turnover threshold for eligibility for the scheme from £200,000 to £100,000. Perhaps the Minister would say a couple of words about that, or correct me if it has already happened. Perhaps he would kindly confirm when the missing SI—the other one on the list of five—will be placed beside the turnover-reducing one. I understand that it will be next month.

My understanding is that the statutory instruments are part of a wider HMRC and Treasury plan to introduce mandatory online filing for construction industry scheme contractors and, in that sense, the free online software and pre-populated forms have been useful to small businesses, as the helpful Library note from 2011 indicates. I found intriguing what the tax impact note says about the fact that some people do not wish to do

online filing on religious grounds. I concede that that was a new one to me—that is my ignorance. Perhaps the Minister would elucidate it a little for me and, I suspect, some other hon. Members. It is slightly concerning when we are trying to move to a more efficient online system, but people's religious beliefs have, of course, to be respected, and the Government are doing that.

In the tax impact note of 10 December 2014, two figures seem to be given for the number of businesses affected—90,000 and 40,000. I think that the Government anticipate that it is the latter figure that will be affected by the package of measures, including today's statutory instrument, but perhaps the Minister would clarify that. If the figure is not 40,000, perhaps he would say what the Government estimate it to be.

I realise that the explanatory notes do not form part of the statutory instrument, but they say that the tax impact note of 15 months ago still holds good:

“It remains an accurate summary of the impacts that apply to this instrument.”

However, the still-effective tax impact note itself says on page 3:

“Estimates of the impact on businesses will be established and published once details of the measure have been finalised.”

Would the Minister tell us whether those estimates have been established and published? I have not been able to find them, but that might be to do with my research capabilities.

On the same page, the note refers to the costs of the changes:

“HMRC will incur costs to make changes to, or introduce new, IT systems to enable improvements to the CIS scheme.”

Would the Minister tell us whether the package of statutory instruments and measures to change the CIS scheme will lead to a need for new IT systems or alterations to existing ones, and what the costs are likely to be?

Naturally, when any Government introduce changes to a scheme, at a certain point thereafter they ought to make an assessment of the effectiveness of the scheme and the changes, and whether they have produced the desired outcome. Would the Minister say when the Government might be able give an indication of the effectiveness or otherwise of the changes made—a year down the road, two years down the road, and so on? As I said earlier, the scheme has been changed quite a lot over the years. In that context, what would be the Government's measurement or, as we say these days, metric for success in terms of whether the package of changes has produced broadly the types of improvement for small businesses that we all want?

2.40 pm

Mr Gauke: I thank the hon. Member for Wolverhampton South West for his questions. He touches on the change to the threshold for the turnover test to £100,000 and asks when he will be able to see the statutory instrument. That SI, together with the online filing mandation, will be laid next week. It will not necessarily be the highlight of his week, but that will be among the things emerging from the Treasury and HMRC next week.

It might be helpful to set out what we are doing to reduce the administrative burden of operating the construction industry scheme. HMRC is improving the online verification service and the CIS online filing

service. It is making it easier for subcontractors to obtain gross payment status by reducing the threshold for the turnover test to £100,000 in multiple directorships and partnerships, and amending the regulations to reduce the number of obligations in the initial and annual compliance tests. It is introducing a digital service to allow subcontractors to view their payments and deductions online. HMRC is removing the obligation to file a nil return where a contractor has not paid subcontractors, and it is allowing earlier repayment where a company subcontractor is subject to a winding-up proceeding during the tax year—both measures were implemented in April 2015.

The hon. Gentleman raised the matter of those who, on religious grounds, do not wish to file online. I think some—not all—members of the Plymouth Brethren, for example, object to using computers. HMRC will make provision for persons falling into that category, in very much the same way as was done for real-time filing of pay-as-you-earn. Although not new, this is an issue and HMRC will seek to address it.

The hon. Gentleman asks about estimates of the consequences of these measures. I assure him that he has not missed anything. They have not been published, but they will be shortly—at Budget next week, I anticipate. He has a few days in which to look forward to that.

I do not think these changes throw up too many new challenges for HMRC's IT systems. HMRC is continuously improving its services and its IT capability. I could take some time to set out the progress that has been made on that front, Ms Dorries, but will say only that HMRC is very much alive to the need to ensure that it is delivering an up-to-date digital service.

In assessing the impact of the measures, as is often the case with tax measures, there is a number of competing objectives. First, there is the need to protect a substantial amount of tax revenue—and the construction industry scheme does precisely that—but to do so in a way that keeps the regulatory burden on businesses and individuals to a minimum. The reforms are intended to continue effectively to protect revenue, which the construction industry scheme is designed to do. HMRC estimates that the construction industry scheme ensures compliance in the construction sector by monitoring payments of subcontractors, which protects £5.2 billion a year. Proper monitoring and the protection of revenue are important, but we want to reduce the regulatory burden and we hope that the measures before the Committee are steps toward getting that right.

I hope that I have given helpful clarification and that the draft order has the support of both sides of the Committee.

2.45 pm

Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): It is a pleasure to serve under your chairmanship, Ms Dorries. I will be very brief. I have just three points to put to the Minister. First, unusually, we have received no complaints from any quarter about—

The Chair: Order. May I make the point that it is normal practice to catch the Chair's attention to speak before the Minister responds? In future, Mr Mullin, when you attend debates, you can speak after the Opposition Front Bencher, but please try to let the Chair know that

[The Chair]

you want to speak before the Minister makes his or her closing remarks. This means that the Minister may have to come back again, which prolongs the debate.

Roger Mullin: My apologies, Ms Dorries.

On the basis that there have been no complaints, and that, as the hon. Member for Wolverhampton South West pointed out, the unions are also satisfied, there is no good reason to oppose the order.

My second point is that I think the restriction of the three tests makes absolute sense and simplifies matters for businesses. My third point, which is not intended as a serious criticism, is that having run a number of small businesses in the past, I think that the opportunity could usefully have been taken to reduce the threshold to the same level as the VAT threshold and thus simplify matters even further. However, we will not oppose the measure.

Question put and agreed to.

2.47 pm

Committee rose.