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STATUTORY INSTRUMENTS

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**2016 No.**

**INCOME TAX**

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

*Made* - - - - - \*\*\*  
*Coming into force* - - - - - \*\*\*

The Treasury make the following Order in exercise of the powers conferred by paragraph 13(1)(b) and (c) of Schedule 11 to the Finance Act 2004(a).

[A draft of this instrument was laid before, and approved by a resolution of, the House of Commons in accordance with paragraph 13 of Schedule 11 to the Finance Act 2004].

**Citation and commencement**

1. This Order may be cited as the Income Tax (Construction Industry Scheme) (Amendment of Schedule 11 to the Finance Act 2004) Order 2016 and comes into force on 6 April 2016.

**Schedule 11 to the Finance Act 2004**

2. Schedule 11 to the Finance Act 2004 is amended as follows—

(a) in paragraph 4(1) for paragraph (a) substitute—

“(a) any obligation imposed on the applicant in the qualifying period (see paragraph 14)—

(i) to pay the amount liable to be deducted under section 61 of this Act from payments made during that period,

(ii) to submit returns as required by regulations made under section 70 of this Act,

(iii) to pay the tax liable to be deducted under the PAYE Regulations (S.I. 2003/2682)(b), and

(iv) to submit a self-assessment return, and”;

(b) in paragraph 8(1) for paragraph (a) substitute—

“(a) any obligation imposed on that partner in the qualifying period (see paragraph 14)—

(i) to pay the amount liable to be deducted under section 61 of this Act from payments made during that period,

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(a) 2004 c. 12.

(b) S.I. 2003/2682, relevant amending instruments are S.I. 2012/822, 2013/521, 2013/2300 and 2014/472.

- (ii) to submit returns as required by regulations made under section 70 of this Act,
  - (iii) to pay the tax liable to be deducted under the PAYE Regulations (S.I. 2003/2682), and
  - (iv) to submit a self-assessment return, and”, and
- (c) in paragraph 12(1) for paragraph (a) substitute—
- “(a) any obligation imposed on it in the qualifying period (see paragraph 14)—
    - (i) to pay the amount liable to be deducted under section 61 of this Act from payments made during that period,
    - (ii) to submit returns as required by regulations made under section 70 of this Act,
    - (iii) to pay the tax liable to be deducted under the PAYE Regulations (S.I. 2003/2682), and
    - (iv) to submit a self-assessment return, and”.

ABC  
DEF

Date Two of the Lords Commissioners of Her Majesty’s Treasury

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends Parts 1, 2 and 3 of Schedule 11 to the Finance Act 2004 (c. 12) which set out the three tests or conditions which a sub-contractor in the construction industry must satisfy to be registered for payments to be made to it gross (i.e. payments from which there are no deductions under the Construction Industry Scheme). Part 1 sets out the conditions which must be satisfied by an individual where the application is made by an individual to be registered for gross payment. Part 2 sets out the conditions which must be satisfied by a firm where there is an application by an individual or a company to be registered for gross payment as a partner in a firm. Part 3 sets out the conditions that must be satisfied by a company where there is an application for the company to be registered for gross payment.

Article 2 amends the compliance test in paragraphs 4, 8 and 12 of Schedule 11 to reduce the number of obligations that an application must have complied with in the qualifying period, which is defined in paragraph 14 as being the period of 12 months ending with the date of the application for gross payment status. As a consequence of this instrument an applicant will now only be required to have met its obligations to file monthly returns in respect of the construction industry scheme and its obligation to file a self-assessment return or a corporation tax return and to have paid to HMRC the amounts which the applicant was liable to have deducted under section 61 of the Finance Act 2004 and under the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682).