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CIS guide

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What is CIS?

CIS (construction industry scheme) is a tax collection system whereby main contractors, and other organizations undertaking a significant amount of construction work, must deduct income tax from payments to subcontractors, and account for that tax to HMRC as payments on account.

The work that falls under CIS

CIS rules only apply to supplies between contractor and subcontractor, not supplies direct to the general public or services supplied by PAYE employees.

Contractors and subcontractors may be Limited Companies, partnerships or sole traders; but anyone who gets a lot of construction work done may also be classed as a contractor e.g. the local council, housing associations.

CIS rules apply to most construction projects including

- New build
- Conversion
- Property repairs and alterations
- Engineering works
- Roads and bridges

And to most jobs on the project including

- Site preparation
- Demolition
- System installations e.g. air conditioning
- Electrics
- Water works
- Decorating
- Cleaning
- Supervision

Exclusions

- Professional services e.g. architects, surveyors
- Consultants e.g. designers, site testing
- Plant hire

- Materials including delivery
- Carpet fitting
- Site services e.g. canteen, security
- Mining & related activities

If a job includes a mixture of supplies, then all is subject to CIS e.g. supply and install

Subcontractors

Subcontractors need to register with HMRC as subcontractors, in order that tax payments, deducted by the contractor, can be recorded in their name and hence be available for offset or refund.

Subcontractors should supply their UTR number to the main contractor, along with name and address, and National Insurance number if a sole trader, or registration number if a limited company or limited liability partnership.

Tax Deductions

Income tax is deductible at a flat rate of 0%, 20% or 30% from the invoice total, before VAT and after deduction of sums charged for materials.

- 0% tax may be deducted if the subcontractor has obtained gross payment status
- 20% tax is standard
- 30% tax may be imposed if the subcontractor has not registered or has bad history with HMRC

Clear invoicing can aid correct deductions.

Tax is deductible at point of payment, and certificates should be supplied by the contractor to subcontractors, advising tax deducted and reported to HMRC.

Contractors

Contractors need to register with HMRC as contractors, in order to report and pay over these sums deducted from subcontractors. This is a subsidiary part of PAYE, the system for reporting payroll taxes, and uses the same references for both reporting and payment, however the reporting regime is totally separate.

Once registered then reports need to be made monthly, even if nil, with penalties for late submission. Submissions must be made electronically via government gateway, for each tax month ended 5th, by 19th of the month.

Details of each subcontractor employed must be taken, before they commence work, and verified with HMRC. This verification process is done via the government gateway, or CIS software, and remains valid for up to 2 years after the last use. HMRC should then inform the contractor if deductions are to be made at other than the standard 20%.

Whenever a subcontractor is paid then tax needs to be calculated and deducted before payment of the net to the subcontractor.

Each tax month the contractor needs to report to HMRC for each subcontractor, the total invoiced before VAT, the materials element and tax deducted.

The total of tax due is then payable to HMRC by 19th by the contractor.

The contractor is also obligated to provide to each subcontractor a payment and deduction statement within 14 days of the month end, advising sums reported to HMRC.

Contractor and/or subcontractor

A business may qualify as either contractor or subcontractor or both. This does not change their obligations. However, a limited company who is both contractor and subcontractor, may have interim offset opportunities.

CIS tax offset

Tax deducted under CIS is income tax paid on account and hence is available for offset against tax liabilities, or even refunded if liabilities are lower.

Sole Trader subcontractor – CIS is offset against personal tax and national insurance assessed via a self-assessment personal tax return. Hence CIS tax suffered in the tax year should be reported on the tax return for that year to obtain offset or refund.

Partner as subcontractor – CIS tax may be offset against personal tax and national insurance liabilities of the individual partners. Hence CIS tax suffered in the tax year should be reported on the partnership tax return, and allocated to the partners, to be transferred to their individual tax returns for offset or refund.

Limited company – CIS tax suffered, should be claimed monthly for offset against PAYE and CIS liabilities in respect of staff and/or subcontractors. At the end of the tax year then any excess may be carried forward, refunded or offset against other tax liabilities e.g. corporation tax.

CIS & VAT

CIS and VAT rules apply independently.

- VAT is calculated on the invoice total, ignoring CIS
- CIS is calculated on the invoice total, ignoring VAT

VAT rates and amounts must be recorded on invoices, by the subcontractor.

CIS may be recorded on the invoice, but it is not compulsory, as it is the contractor's responsibility to calculate and deduct the correct CIS tax before payment.

However, from 1st March 2021 there are new rules on how to report and account for most VAT charged on invoices subject to CIS rules - the domestic reverse charge VAT rules.

Under reverse charge rules, VAT is not added to the invoice total for payment. The VAT calculated is just noted on the invoice together with instructions that it is to be accounted for, by the contractor, to HMRC, via domestic reverse charge VAT rules.

Hence the contractor pays to the subcontractor, a sum equal to the invoice total, excluding VAT less CIS tax payable.

Domestic reverse charge VAT

The Domestic reverse charge is a way of accounting for the VAT on an invoice without cash changing hands between contractor and subcontractor.

The VAT on the invoice is just a memo, it is not paid.

Whom does it apply to?

Domestic reverse charge VAT rules will apply from 1st March 2021 to most invoices raised by VAT registered subcontractors to VAT registered contractors.

The exception is if that contractor is also the "end user" i.e. the owner of the building under construction, or a council or housing association. The end user contractor must provide a certificate to the subcontractor confirming their end user status, and then reverse charge rules will not apply; and so the subcontractor must collect the VAT and account for it to HMRC in the usual way.

What exemptions are available?

Certain CIS works are exempted from reverse charge accounting

- Zero rated supplies
- Standard rated new build supplies
- Supply of agency workers
- Mixed supplies where CIS element is less than 5%

How does the contractor account for the VAT?

Firstly, such invoices must be accounted for based on invoice date not paid date, so you cannot use the cash accounting regime.

If you are using accounting software, then make sure you choose the right VAT code for domestic reverse charge – standard 20% or reduced 5% VAT and the software should do all the work for you.

When the invoice is paid by the contractor, no VAT is paid.

When preparing the VAT return

- The VAT due on this invoice, under reverse charge rules, should be included in box 1
- That same VAT is also classed as purchase VAT so should be included in your calculation of VAT to be claimed on purchases in box 4
- The purchase cost (before VAT & CIS) goes in box 7

How does the subcontractor account for this invoice for VAT?

The invoice is recorded in the subcontractor's books as if zero VAT were charged, however, a memo of the actual VAT due needs to be shown on the invoice, as well as a note that the contractor is liable to account for it under reverse charge rules

If you are using accounting software, then make sure you choose the right VAT code for domestic reverse charge – standard 20% or reduced 5% VAT and the software should do all the work for you

When the invoice is paid by the contractor, no VAT is paid

When preparing the VAT return

- the subcontractor does not include the VAT on their return
- total sales value (before VAT & CIS) goes in box 6



Frequently asked questions

Who is subject to CIS?

CIS is primarily for those supplying labour in the construction industry, so covers most work to land and buildings from site preparation through to decorating.

Exempt works include

- Architects
- Surveyors
- Carpet fitters
- Workers facilities e.g. canteen

Who is a contractor?

Contractors under CIS are not just building contractors. It includes property developers, those supplying labourers and any organisation that does a lot of building works such as local councils and housing associations.

Exceptions apply for charities, schools and work on your own business premises.

You can apply for an exemption for one off work under £1,000.

Who is a subcontractor?

A subcontractor is any business, sole trader, partnership or company, doing work in the construction industry, for a contractor.

What are materials?

Materials are costs incurred by the subcontractor, recharged and listed on the invoice

e.g. building materials, consumables, plant hire, prefabricated parts, goods

What is gross status?

A subcontractor may apply for gross payment status, whereby 0% tax is deducted by contractors.

Qualifying criteria

- Paid previous tax and national insurance on time
- In business in construction in the UK
- Uses a business bank account
- Turnover less materials is greater than £30,000 per business owner, or over £100,000 (unless a close company)

What is a payment and deduction statement?

Whenever you report CIS to HMRC you need to provide the subcontractor with a payment and deduction statement, within 14 days, advising them what you have reported. This can be in any format you choose, and your CIS software or payment software may produce one for you. Otherwise you can design your own or use HMRC template

<https://www.gov.uk/government/publications/construction-industry-scheme-payment-and-deduction-certificate>

How do I verify a subcontractor?

You can verify a subcontractor direct with HMRC using their online service via your government gateway, or using CIS software.

What if I am no longer paying subcontractors?

If you have stopped paying subcontractors short term then you can make 6 months nil returns in advance or continue to make nil returns monthly. If stopping altogether then you will need to cancel the CIS part of your PAYE scheme or close it altogether by contacting HMRC.

What can I offset my payments on account against?

CIS deductions count as payments on account towards income tax and national insurance due.

Sole trader and partners pay their income tax and national insurance via their self-assessment personal tax return, so CIS deductions are reported and deducted on the personal tax return for the period of deduction

A limited company pays income tax or national insurance in respect of PAYE deductions from staff and subcontractors, so the CIS suffered is deductible from its PAYE bill.

When do I get my refund?

A refund may be payable if there is excess after offset. Hence a refund is only available after the annual return claiming offset has been submitted.

For a sole trader or partner this is after submission of the relevant self-assessment personal tax return.

For a limited company this is after the tax year end PAYE returns have been submitted and checked.

As my tax is paid by CIS, then do I need to prepare a personal tax return?

CIS is income tax paid on account and is based on a very basic calculation, without taking into account any personal allowances, business overheads or other income. Your personal tax return is needed to take all of these into account and hence calculate your actual tax liability, against which the CIS payments on account may be offset.

Why is my CIS not the same as my tax bill?

CIS does not take into account many things that your personal tax bill does e.g.

- Personal allowances
- Business overheads
- Other non-CIS jobs
- Other income
- National Insurance

When does domestic reverse charge VAT start?

Domestic reverse charge starts 1st March 2021, unless postponed again.

That is invoices raised on 1st March and later, regardless of when work was done or invoice was paid.

Do I need to be VAT registered?

If your business turnover is over £85,000 then you need to be VAT registered. VAT registration and CIS are totally separate, so you can just be subject to CIS, and not VAT registered.

How do I register for the CIS scheme?

Subcontractor – Firstly, a subcontractor must be registered for tax and have a UTR number, as a sole trader, partnership, or limited company.

A sole trader may then register via their Government gateway, or by ringing the CIS helpline on 0300 200 3210.

A limited company or partnership may register by completion of form CIS305.

For more information visit <https://www.gov.uk/what-you-must-do-as-a-cis-subcontractor/how-to-register>

Contractor – The operation of CIS goes along- side PAYE registration, using the same reference numbers and payment account with HMRC.

If you are already registered for PAYE i.e. have a staff payroll, then CIS registration is an enhancement.

Registration may be done online at <https://www.gov.uk/register-employer>

What are the penalties if the requirements of the scheme are not met?

Subcontractors who fail to register with HMRC are subject to 30% deductions

Contractors who fail to operate the scheme are still liable to pay the tax they should have deducted. HMRC treat the payments made to subcontractors as if they were after deduction of tax, when assessing the liability, and this is regardless of whether the subcontractor has declared or already paid tax on those monies. Additionally, penalties for failing to operate the scheme correctly can be £3,000 or up to 100% of the tax due.

Contractors who do operate the scheme but fail to submit returns on time are subject to penalties, of £100 for each return rising to £300 or 5% of the tax due.

How dns can help

This guide is only a quick insight into a very big topic. Each project and circumstance is unique and HMRC is always changing the rules and guidance for implementation.

Please speak to dns Accountants about what is currently applicable to you and for help with returns.

We are passionate for our clients to pay the least amount of tax legally.

Links to HMRC/Gov website for details on the scheme

For more info on operating the CIS scheme visit

<https://www.gov.uk/government/publications/construction-industry-scheme-cis-340/construction-industry-scheme-a-guide-for-contractors-and-subcontractors-cis-340>

For more information on reverse charge VAT visit

<https://www.gov.uk/guidance/vat-domestic-reverse-charge-for-building-and-construction-services>





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