February 2021

Briefing

Taxation in the construction industry

It looks like 2021 is going to be a busy year for taxation changes affecting the construction industry. We have highlighted some of the key changes. Read on to find out more.

1 1 March 2021 - Reverse charge VAT comes into force

1.1 From the 1 March, the recipient of some construction services (and related goods) will have to account to HM Revenue and Customs (HMRC) for both output and input VAT.

1.2 This will be most relevant for contractors and sub-contractors.

1.3 It will **not** apply to end users who use construction services for any reason other than making further supplies of construction services, so developers, universities, the NHS and retailers, are unlikely to be caught. Zero-rated supplies of services (or related goods) are also not within the scope of this reverse charge mechanism.

1.4 This change was originally due to come into force on 1 October 2019 but was postponed, first until 1 October 2020 and then again until 1 March 2021.

1.5 This is potentially very significant for the construction industry. For more information click here for a detailed blog by tax lawyer Tim Waters, which was written before the first postponement.

2 6 April 2021

2.1 CIS (Construction Industry Scheme) changes

2.1.1 Under the Construction Industry Scheme (CIS), contractors deduct money from a sub-contractor's payment and pass it to HMRC. The deductions count as advance payments towards the sub-contractor's tax and National Insurance.

2.1.2 Contractors must register for the scheme. Sub-contractors do not have to register, but deductions are taken from their payments at a higher rate if they are not registered. For more detail on the scheme click here.

2.1.3 There are a number of changes affecting CIS which will come into force on 6 April 2021. These include:

(i) the introduction of a CIS set off amendment power which allows HMRC to amend the CIS deduction amounts claimed by sub-contractors on their Real Time Information (RTI) Employer Payment Summary (EPS) returns;

(ii) clarification about what amounts to the cost of materials for the purposes of making a deduction for CIS; and

(iii) expansion of the CIS registration penalty for supplying false information. Click here for further information.

2.1.4 The key change however is a subtle, but important, change as to what entities outside the construction industry will need to operate the CIS going forward.

2.1.5 This is because the definition of '*deemed contractor*' is changing.

(i) At the moment a deemed contractor is an entity whose construction expenditure on average is more than £1 million a year in any 3 year period; but

(ii) From 6 April 2021 a deemed contractor will be an entity which has a construction expenditure which has exceeded £3 million within the previous 12 months.

2.1.6 Organisations outside of the construction industry, with a large construction spend should monitor their expenditure and regularly review whether they fall within the definition of 'deemed contractor.

2.2 IR35 (off-payroll working)changes

2.2.1 Currently, where an individual's services are supplied to a client via that individual's personal service companies (PSC) (or other similar intermediaries), the PSC is responsible for determining whether the individual should be treated as an employee of the client for tax purposes, and if so, for paying the correct amount of tax.

2.2.2 From 6 April 2021, this will change. Clients will become responsible for deciding the employment status of every worker who operates through their own PSC or intermediary - even if there is also an agency in the contractual chain - if 2 out of 3 of the following conditions apply to the client:

(i) annual turnover of more than £10.2 million;

(ii) a balance sheet total of more than £5.1 million; and

(iii) more than 50 employees.

2.2.3 The changes go beyond the construction and FM industry, but may have a material effect.

2.2.4 This change was originally due to come into force on 1 April 2020 but was postponed by a year – see a blog here by construction lawyer, Alison Garrett, about the postponement.

2.2.5 For more detailed information click here to read an article by tax partner, Kevin Lowe.

3 2021 (date to be confirmed) - Construction Industry Training Board (CITB) Levy reduction

3.1 The CITB levy applies to all employers 'engaged wholly or mainly in construction industry activities'.

3.2 The levy is used to support construction employers to make sure the industry has the skilled workforce it needs.

3.3 How much levy is paid is based on the total wage bill (the amount paid to employees in a year). Employees are treated as those on the payroll and CIS sub-contractors for whom a CIS deduction is made.

3.4 Levy rates in 2020 remained at 0.35% for PAYE and 1.25% for Net CIS.

3.5 In 2021 it is proposed (but has not yet been confirmed) that the rate be reduced by 50% for 1 year.

4 2022 - Cladding tax

4.1 And lastly, something that is planned to take effect in 2022. The Government has announced a proposal for a new tax on the residential development sector to be introduced in 2022 to help pay for combustible-material remediation on tower blocks. The tax, which will apply to the "largest property developers", will raise "at least £2bn over a decade", according to housing secretary Robert Jenrick.

4.2 The Government will "consult on the policy design in due course".

4.3 We will provide further information as and when it becomes available.

Get in touch

Alison Garrett
Senior Legal Adviser
T: +44(0)1223 222207
E: alison.garrett@mills-reeve.com