

# JTC NEWSLINE

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## Consultation on Reverse Charge VAT

Do you know that there is a major consultation going on about VAT in the construction industry which could have major implications for you?

First, let me try and explain why HMRC want to do something so radical. Then I will outline what they want to do. Finally I will describe what your federation and the Joint Tax Committee have said to the consultation and why. It is quite scary stuff but at least if changes are legislated, you will understand why World War Three is erupting around you.

### The problem as HMRC see it

HMRC are suffering from attacks on the revenue made by organised criminals. These people deliberately set up construction companies, or buy them because they are failing, and get them gross CIS status (often by straightforward lying and manipulation). The organisers have 'bent' contacts in the construction industry, who place contracts with them to do the sort of work that requires large numbers of net CIS workers. The workers are introduced to the rogue trader, who does the work, claims payment plus VAT and then disappears before paying the VAT to HMRC. The disappearing firm usually also takes with it the CIS tax of all the workers. This is quite a windfall and means that they can price very competitively to win work because they haven't any tax overheads. Whilst very few people in real construction have any experience of this, it is not for us to deny that it happens. HMRC are professional tax collectors and if they say they are under attack it is reasonable to believe them. The tax lost is our money after all.

### What they propose to do

This is where you have to go for a wet towel to wrap around your head. They are proposing that where a job is VAT-able and money is to be paid to the subcontracting company for that work, the paying contractor does not actually pay the VAT to the subcontractor, they pay the subcontractor net, paying the VAT straight to HMRC. The paying contractor's return will then have VAT paid and VAT reclaimed just as now but the money will pass from the payer to HMRC rather than to any subcontractor. This affects you because your firm will be a subcontractor sometimes **and** will pay subcontractors sometimes. So under the proposals you would not hand over any VAT to any VAT registered subcontractor but would pay it direct to HMRC. And anyone paying you would not add the VAT due to the payment but would pay it to HMRC themselves. So just at this level of complexity, the measures proposed

will change the cashflow in your business and there may be a serious issue if you have been using VAT collected to pay bills – if you have been trading hand to mouth.

### What has your federation and the JTC said?

Well, the proposals were actually more complicated than I have explained so far. HMRC quite sensibly wanted to keep small traders unaffected by the changes so were proposing that Reverse Charge should only apply when a contract price was over a certain threshold, or when payments to a subcontractor had exceeded a cumulative threshold in a month, or were over a certain amount. They also thought that any threshold might apply only to the labour element of any job.

So the response that we have made has said

**(1)** That no one in construction has the time and resources to divide any payments between labour and materials in a fashion that is scientific and can't be manipulated.

**(2)** That a contract price changes all the time with variations and claims and that the accounts office and book keepers will have little day to day access to information about contracts to monitor whether they have topped any threshold and therefore what they should be doing with VAT.

**(3)** That keeping track of cumulative totals of amounts paid to subcontractors in year with a view to changing the way you handle VAT mid-year would be impossible.

We have said that if the measure has to be enacted it must apply to all payments covered by CIS in full, with a single rule for all payments, absolutely all payments reverse charged.

If Construction is to cope with the complexity of the change then VAT would have to be reverse charged the length and breadth of the Construction chain. **But** we have gone on to say that the change would be enormous and would cost a very great deal in training personnel, purchasing new software and correcting mistakes. We have said that it simply isn't what should be done when every taxpaying firm should be focusing on the 'Making Tax Digital' change and that will be confusing enough!!! The response says clearly that the proposals made by HMRC will not work and have suggested the only route which could be made to work....but that the proposals are far too serious a change and far too costly for the industry to bear.

If you would like to see the full consultation and the JTC/NFDC response please email [Liz@thetaxbridge.com](mailto:Liz@thetaxbridge.com). Hope and pray that you never hear the words Reverse Charge again!! ■

**Use of Labour Providers - HMRC issue new guidance**

It is clear that there is a lot of attention beginning to focus on the taxation of labour coming into construction via agencies and gang masters. This new guidance was issued on 19 May and it is firm in its view that anyone using labour supplied by another should;

- Check that the supplier is legitimate and has no history of non-compliance.
- Check that you understand and approve the labour supply chain.
- Check that the workers get their contractual rate and that it complies with the National Living Wage and National Minimum Wage.
- Ensure that you are doing all you can to eradicate illegal working in your supply chain.

It says that an employer should undertake checks to understand

- Where workers have come from;
- How they have been paid; and
- The legitimacy of those arrangements.

The guidance note goes on to threaten that if non compliance or fraud is found in your supply chain, HMRC may hold you responsible.

The guidance note is available on the internet 'HMRC Guidance Note 19 May 2017'.

Before you panic, remember that if there is nothing illegal in your supply chain you have nothing to worry about. This is HMRC writing on the public wall that those that use cheap illegally employed labour will be held responsible. Examples are given to help people avoid getting involved with high risk businesses and individuals. The point made is that everyone must use their common sense. Some prices for labour are just too low. They indicate a workforce is not being paid and taxed properly.

Coming after the publication, and threat of legislation, in the Reverse Charge Consultation, this guidance note indicates that HMRC are experiencing considerable tax losses through fraudulent labour providers and that they are gearing up to action. Take care. ■

**Government Gateway**

A member has reported a problem resetting a government gateway if the password and PIN are lost or become out of date because of a staff change.

Is anybody having issues getting their password and PIN reset for the government gateway?

Please can you email [Liz@thetaxbridge.com](mailto:Liz@thetaxbridge.com) with a short account of what attempts you have made and what has happened. ■

**Tax Case highlights a common error (J & B Hopkins LTD TC5874)**

A subcontractor carried out work for a main contractor whose own contract was with a charity. The main contractor received a certificate from the charity which enabled it to zero-rate its supplies. The main contractor, wrongly, passed the certificate to the subcontractor and demanded the subcontractor should zero-rate its supplies to him.

When you are involved in housebuilding, a new house or flat the zero-rating requires no certificate, and all subcontractors and the main contractor can zero-rate. On any other zero-rated project only the main contractor can zero-rate. The subcontractors must standard rate and the main contractor can simply recover the VAT charged. Do not pass the zero-rate down the chain except when housebuilding ordinary houses and flats. ■

**HMRC PAYE and payroll reminders**

- From the end of May 2017 HMRC will use Real Time Information to make automatic adjustments to PAYE tax codes as they happen, rather than waiting until the end of the tax year.

- Taxpayers are reminded to tell HMRC straight away if they stop employing people. This can be done via an FPS or EPS by entering the cessation date in the 'date scheme ceased' box.

- From 6 April 2017 employers with a pay bill over £3m will have to report and pay the Apprenticeship Levy.

- The Low Income Reform Group has a very useful site called 'How do I check my coding?' recommended for employees in a muddle about coding.

[www.litrg.org.uk/tax-guides/employed/how-do-i-check-my-coding-notice](http://www.litrg.org.uk/tax-guides/employed/how-do-i-check-my-coding-notice)

**CIJC Wage Agreement increase from 26 June 2017**

The agreement gives amongst other things, the rate of subsistence allowance that can be paid tax free if a certificate is signed.

**From Monday 26 June this increases to £37.12. ■**

**Phishing scams warning from HMRC**

HMRC are strongly warning people to be on the lookout for a new phishing scam. If you get an email with the subject, "Your 2016 Tax Report", with an attachment, do not open it.

Please forward it to [phishing@hmrc.gsi.gov.uk](mailto:phishing@hmrc.gsi.gov.uk) and then delete it. ■

If you have a query please contact Liz Bridge.  
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