

Consultation on Construction Industry Scheme (CIS) Reform

The Government has [published a consultation](#) proposing reforms to simplify and strengthen the Construction Industry Scheme (CIS).

The CIS aims to prevent tax and labour fraud for businesses and individuals working in construction, by requiring contractors to make deductions on payments made to a subcontractor and pay the withheld tax to HM Revenue & Customs (HMRC), unless the subcontractor has been granted Gross Payment Status (GPS). The Government is proposing changes to simplify certain areas of the scheme and strengthen its protections against fraud.

The Government is seeking views on the following potential reforms to strengthen GPS tests and prevent fraudulent activity, these include:

- Adding VAT to the GPS compliance test
- Bringing forward the first annual review of tax compliance history
- Moving to digital application only for GPS

There are also proposals to introduce grouping arrangements for large groups of companies subject to the scheme, to allow a single company within the group to be nominated as responsible for submitting one single monthly group CIS return to HMRC on behalf of all group members.

CIOB will be responding to this consultation and welcome feedback on the Government's proposals from construction industry professionals [via our survey](#).

Background

The CIS exists for the construction industry as it poses particular fraud risk to HMRC, due to the sector featuring long, complex supply chains, as well as a significant number of mobile workers paid in cash.

As a default under the scheme, deductions are made from all payments from a contractor to a subcontractor. However, having GPS approval enables subcontractors to receive gross payments from contractors without CIS deductions. To receive GPS approval, subcontractors must pass testing to verify that they meet the three sets of criteria for GPS: that the business that carries out construction operations with a UK bank account; that it has sufficient turnover to qualify for GPS; and that it is fully compliant with its tax obligations that are covered by the scheme.

In recent years the Government has taken steps to strengthen the process for securing GPS to improve the scheme's protections against fraudulent activity. However, HMRC has continued to observe consistent tax fraud in the case of organised criminal groups, who use false invoices to send payments through artificial supply chains to a number of subcontractors, as well as using off-payroll workers. As a result, it is exploring options

to strengthen the scheme's protections against fraud, whilst ensuring the scheme is not administratively burdensome for businesses.

Proposal to Incorporate VAT within GPS

A notable proposed change to the CIS is to include VAT within the GPS compliance test. The compliance test checks that all CIS and relevant tax affairs are up to date, meaning the business has submitted all returns and payments correctly and on time.

An issue currently faced by HMRC is that GPS testing does not detect non-compliance with tax obligations in respect of VAT. Whilst there are other measures in place to tackle VAT non-compliance within the sector, these operate separately to the GPS and are not comprehensive, meaning that some subcontractors are not meeting their VAT obligations whilst still holding GPS status.

In order to ensure that GPS better ensures that a business is meeting its tax obligations, the Government is proposing that VAT returns and payments are included within the compliance test. HMRC estimates that 16% of subcontractors that currently have GPS status would not pass the compliance test if VAT was to be included, but the vast majority of these cases could be easily fixed through companies taking steps for more timely submission of VAT returns and payments. The Government is seeking views as to whether there are any practical issues with including VAT within CIS compliance testing.

Whilst CIOB supports the proposal to include VAT within the GPS compliance test, we believe it would be necessary to provide businesses with sufficient notice of this change and that the inclusion of VAT in the compliance test should not apply retrospectively of any notice given to businesses, to allow non-compliant businesses to get their VAT affairs in order and avoid unnecessary administrative burden for both HMRC and industry.

Further Proposals to Strengthen GPS Testing

The Government also makes two further proposals to strengthen the GPS application and review process against fraudulent activity: to bring forward the first annual review of tax compliance history following GPS approval, and to introduce a new power for HMRC to mandate the channel of application for GPS.

Currently, HMRC carries out the compliance test for businesses on an annual basis following the date it is initially granted GPS, to check for any missing or late returns or payments. The Government proposes to carry out the compliance test sooner after GPS approval, proposing that the automated check could take place 6 months after GPS is granted rather than twelve, and subsequently on an annual basis. The Government's motivation for this proposal is to more quickly detect businesses that soon become non-compliant once granted GPS. As the compliance test is carried out automatically, CIOB do not see any practical issues for tax-compliant businesses to have the first compliance review brought forward by 6 months.

In addition, the Government is consulting on introducing a power to enable HMRC to mandate the channel of application for GPS. Currently, GPS applications can be made by phone. However, HMRC has noted that the that many businesses that are fraudulent take advantage of phone GPS applications due to this application process offering a

lower level of scrutiny than online applications. As a result, the Government is looking to introduce the legislative power for HMRC to prescribe the channels available for GPS application, with a view to moving exclusively to online applications following further discussions with industry. CIOB would not see any issue with moving to digital applications only, as businesses that have sufficient turnover to qualify for GPS are likely to have the digital access and capacity to submit online applications.

Establishing a Grouping Arrangement

The Government is also consulting on whether it should establish a new statutory grouping arrangement for groups that consist of a number of companies each with separate CIS reporting arrangements.

The Government notes that the application of CIS can be complex in cases of large groups of companies where payments to subcontractors are irregular or infrequent, and that these groups have raised that reporting requirements for CIS are often time-consuming. There is an existing option for groups under the CIS to use a 'Scheme Representative', where a company can appoint another company in the same group to act on its behalf to make returns and payments under the scheme. However, the Government claims that this arrangement does not overcome the issue that each company still has a separate legal reporting obligation.

As a result, the Government is consulting on establishing the option of a CIS grouping arrangement for certain types of groups or entities. The proposed grouping arrangement would allow a single company within the group to be nominated as responsible for submitting one single monthly group CIS return to HMRC on behalf of all members of the group or entity. The nominated company would be treated as the contractor holding statutory reporting and payment obligations under the CIS.

The Government is seeking industry feedback on several aspects of how a grouping arrangement would work and whether it would create practical issues, and has suggested the grouping arrangement process could be established with the following features:

- The process of a 'grouping arrangement' be statutorily prescribed by HMRC
- Group companies would be jointly and severally liable for CIS deductions due to HMRC
- Eligibility for participating in a grouping arrangement would be companies with 75% or more ownership by a group parent company
- Each individual company would still be required to operate the CIS in terms of payments made to subcontractors, including intra-group payments

Whilst CIOB supports a grouping arrangement in principle, we would view there being further consultation needed to iron out the detail of a potential grouping arrangement.

We are keen to hear from industry whether there will be unintended consequence or practical challenges in operationalising these proposals. The consultation also provides the opportunity to raise any further potential simplifications or amendments to the CIS, and we welcome members to comment on whether the scheme currently works as intended. If you would like to provide feedback to inform our response, [please click here to respond to our survey](#).

Should you wish to receive any further information, please contact Niamh Evans, CIOB Policy & Public Affairs Officer – North at nevans@ciob.org.uk.