

## The Income Tax (Construction Industry Scheme) (Amendment) Regulations 2026

### Response by the Chartered Institute of Taxation

#### 1. Comments on the draft regulations

- 1.1. These regulations amend the Income Tax (Construction Industry Scheme) Regulations 2005 ('the CIS Regulations') to:
  - exempt payments made to local authorities or public bodies from the scope of the CIS,
  - require construction contractors to file a nil return when they have not paid any subcontractors in a month, unless they have notified HMRC in advance that they will not make any such payments that month.
- 1.2. We are concerned that the reintroduction of a requirement to make a nil return when a contractor has not made any payment to sub-contractors in a tax month adds an unnecessary administrative burden on tax compliant businesses.
- 1.3. The Income Tax (Construction Industry Scheme) (Amendment) Regulations 2015 (SI 2015/429) removed the statutory obligation on contractors to make nil CIS returns for tax months where no payments are made to subcontractors with effect from 6 April 2015. This change<sup>1</sup> was made because:
  - Nil returns created unnecessary administrative burdens for both contractors and HMRC;
  - The requirement caused avoidable penalties and frustration for compliant businesses;
  - Removing the obligation would simplify the administration of CIS and reduce burdens without reducing compliance; and
  - It would allow more sub-contracting businesses to achieve and maintain gross payment status so improving their cashflow<sup>2</sup>.
- 1.4. Contractors welcomed the removal of this unnecessary burden and have been used to not needing to file nil returns for over 10 years. While we note that HMRC has '*found that the removal of the nil filing obligation did not reduce administrative burdens for contractors or for HMRC*' we think this is because of erroneous late filing penalties being issued which could only be prevented from happening by businesses voluntarily filing nil

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<sup>1</sup> [https://assets.publishing.service.gov.uk/media/5a7edadbed915d74e6226e26/Construction\\_Industry\\_Scheme.pdf](https://assets.publishing.service.gov.uk/media/5a7edadbed915d74e6226e26/Construction_Industry_Scheme.pdf).

<sup>2</sup> See page 42 of <https://researchbriefings.files.parliament.uk/documents/SN00814/SN00814.pdf>.

returns. Although businesses could also appeal the penalty this does create an administrative burden, but that was not created by the law removing the need for nil returns per se.

- 1.5. Rather than re-introducing the requirement for a nil return which is likely to create the problems the 2015 changes sought to solve, and is also likely to lead to avoidable penalties for compliant businesses, we think a better approach would be to improve processes and systems where necessary to prevent erroneous late filing penalties being issued without requiring the actions described in paragraph 1.4.
- 1.6. It is also worth noting that it is often not possible for contractors to notify HMRC in advance of a month that they will not be making any payments to subcontractors that month as they may not know if that is the case until the end of the month (as they may not know when certain invoices will be received).
- 1.7. We would therefore suggest that the government reconsider the proposal and refrain from re-introducing this additional burden on businesses.
- 1.8. If the requirement to file a nil return is re-introduced, it would be helpful to understand how HMRC is going to make sure contractors know about the new obligation and what approach they will take when a business fails to file a nil return. How will such a failure impact the business's compliance record and gross payment status? Will there be a 'light touch' to penalties initially? (The new regulations mean that a failure to comply with the requirement to file a nil return is subject to penalties.)

## **2. About us**

- 2.1. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4. Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

## **3. Acknowledgement of submission**

- 3.1. We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

2 February 2026