

This Guidance Note is intended only as a general guide and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax.

The information in this booklet can be provided in large print on request.

CONTENTS

	Page
Introduction.....	1
Legislation	1
What is the Isle of Man Construction Industry Scheme?.....	1
Am I a subcontractor for the purposes of the scheme?	2
What is a subcontractor’s tax exemption certificate?.....	2
Applying for a subcontractor’s tax exemption certificate.....	3
Withdrawal or refusal of a subcontractor’s tax exemption certificate.....	4
What are my obligations as a subcontractor?	5
What about income tax?.....	5
Submission of income tax returns.....	5
Making payment.....	6
What if I am a UK or overseas subcontractor?.....	7
If the subcontractor is an individual.....	7
If the subcontractor is a company or business enterprise.....	7
Exemption certificates.....	7
What obligations does a contractor have to their subcontractor?	7
What if I engage subcontractors of my own?	8
What’s new from 6 April 2011?	8
Contact details	9

Please note:

Copies of all forms and guides mentioned in this booklet can be obtained from the Income Tax Division by phoning 01624 685400.

Introduction

This guide is designed to provide subcontractors and their tax agents with information about the Isle of Man Construction Industry Scheme and their obligations under the scheme. It is advisable for them to familiarise themselves with its contents.

Legislation

The legislation under which the Isle of Man Construction Industry Scheme operates, and which defines contractor obligations, is covered within the following Acts passed by Tynwald:

- Income Tax (Instalment Payments) Act 1974;
- Income Tax (Amendment) Act 1986;
- Income Tax Act 1989.

In addition, the following regulations and orders have been passed to supplement the above Acts of Tynwald:

- Income Tax (Modified ITIP) Regulations 1987 [Government Circular No 92/87];
- Income Tax (Instalment Payments) (Temporary Taxation) Order 2010 [Statutory Document No 21/10].

What is the Isle of Man Construction Industry Scheme?

The scheme came into operation in 1988 when, in accordance with Section 6 of the Income Tax (Instalment Payments) Act 1974, the Assessor issued a direction introducing a tax deduction scheme for subcontractors engaged in the construction industry.

The scheme applies to individuals or businesses working in the construction industry and should be operated by contractors in a similar manner to the Income Tax Instalment Payments ("ITIP") system operated by employers. Under the scheme, tax should be deducted from a subcontractor's wage or salary (where applicable) by the contractor on each pay day. The deducted amounts are credited to the appropriate subcontractor at the end of the year and are then offset against the income tax payable on that subcontractor's assessment.

The scheme ensures that any payments made by a contractor to a subcontractor in respect of construction activities are properly recorded and reported, that subcontractor tax exemption

certificates are checked where appropriate, and that any income tax due in respect of the payments is correctly deducted and then paid to the Income Tax Division in good time.

I want to know if I am I a subcontractor for the purposes of the scheme

In general, a subcontractor can be:

- a self-employed individual working on their own or in partnership with others;

or

- a company, which may be either resident or non-resident for Isle of Man income tax purposes.

The individual, partnership or company is a subcontractor if, under a contract, they have a duty to a contractor to either:

- carry out construction operations;

or

- provide their own labour, the labour of others or to arrange for the labour of others to be provided to carry out the operations. Where the subcontractor is a company, the provision of labour refers to the labour of employees or officers of the company, including directors.

In addition to the above, a subcontractor can be an individual, partnership or company given responsibility by the contractor for arranging for operations to be carried out by others. This includes a labour agency or staff bureau which contracts either to get work done using its own workers or to supply the service of workers to a contractor. This can include a gang leader who, in turn, will be acting as a contractor when making payments to the members of the gang.

It is important to note that payments made by the individual, partnership or company to any employees will be subject to Income Tax Instalment Payments (ITIP) in the normal way and that the Construction Industry Scheme only applies to subcontractors.

I want to know about a subcontractor's tax exemption certificate

An Isle of Man subcontractor's tax exemption certificate authorises contractors to make gross payments to subcontractors (i.e. without the deduction of income tax). On receipt of an application, the certificate is issued to the subcontractor by the Assessor of Income Tax on a concessionary basis, providing that certain conditions are met.

Subcontractors should note that, if they are paid gross by the contractor, they are still liable to pay income tax on those payments via their tax assessment. It is therefore important that provision is made to ensure that any tax liabilities can be paid by the due date. If a subcontractor does not have

a valid tax exemption certificate, the contractor will deduct tax at the rate of 20% from any payments made to them.

Applying for a subcontractor's tax exemption certificate

Any subcontractor wishing to apply for a tax exemption certificate should contact the Income Tax Division. In order for a certificate to be issued by the Assessor, the conditions set out below must be satisfied.

Individuals

An individual:

- must have been resident for Isle of Man income tax purposes for at least six months;
- must provide a copy of a current self-employed work permit, if applicable;
- must be registered for Class 2 National Insurance contributions;
- must not have any outstanding income tax returns;
- must not have any unpaid balances of income tax (including payments on account), Class 4 National Insurance (including payments on account), late return penalties or interest or any other unpaid balances;
- if registered as an employer, contractor or third party payer in the Island, must have all remittance payments and returns up to date, with no other unpaid balances.

Partnerships

In the case of partnerships:

- each partner must satisfy the conditions set out above for individuals;
- if the partnership is registered as an employer, contractor or third party payer in the Island, all remittance payments and returns must be up to date, and there must be no other unpaid balances.

Isle of Man resident companies

Isle of Man companies:

- must not have any outstanding income tax returns (or related accounts);

- must not have any unpaid balances of income tax, interest, penalties, distributable profits charge or amounts due under the 'loans to participators' legislation or any other unpaid balances;
- if registered as an employer, contractor or third party payer in the Island, must have all remittance payments and returns up to date, and no other unpaid balances;
- will require each working director of the company to satisfy the conditions set out above for individuals.

UK companies or business enterprises

If the subcontractor is a UK company or business enterprise, then:

- it must confirm that it qualifies for gross payments under UK construction industry legislation;
- if it is liable to tax in the Isle of Man, it must not have any unpaid balances of income tax, interest, penalties, distributable profits charge or amounts due under the 'loans to participators' legislation or any other unpaid balances;
- if registered as an employer, contractor or third party payer in the Island, it must have all remittance payments and returns up to date, and no other unpaid balances;
- it must produce evidence of valid work permits for all construction workers brought to the Island.

When an application for a subcontractor's tax exemption certificate is made, the subcontractor is asked to supply a passport-sized photograph, or agree to their photograph being taken, which will be displayed on the certificate. The certificate cannot be issued without the photograph. In the case of a company, the photograph must be of a company director, company secretary or another person authorised by the company director. In the case of a partnership, the photograph must be of one of the partners.

The certificate can be valid for a period ranging from a few weeks to a number of years and will expire on the last day of any particular month.

The subcontractor should apply to the Division to renew their certificate prior to its expiry date. However, if their tax affairs have not been kept up to date, they may be refused a new certificate.

I want to know about the withdrawal or refusal of a subcontractor's tax exemption certificate

The Assessor reserves the right to refuse or withdraw a tax exemption certificate should any of the following circumstances apply:

- if, at any time, the certificate-holder fails the relevant conditions listed above and fails to bring their affairs up to date within the specified period;
- if, at any time, the Assessor is satisfied that a tax exemption certificate has been misused;
- if, at any time, the Assessor considers that the issuing of a tax exemption certificate may create a serious risk to Government revenue e.g. where there has been a history of business failures or non-compliance by any of the applicants;
- if the subcontractor fails to supply the required passport-sized photograph for display on the certificate, or refuses to have their photograph taken.

I want to know what my obligations are as a subcontractor

If the subcontractor is a self-employed individual, they should inform the Income Tax Division of their intention to be self-employed by completing form [R133 "Commencement of Self-Employment"](#) if they have not already done so. They must also be registered to pay Class 2 National Insurance contributions in order to be entitled to a subcontractor's tax exemption certificate.

Each time a subcontractor receives a payment from a contractor they should also receive a form [C11 "Certificate of Tax Deducted in Respect of Subcontracted Work"](#). The subcontractor must retain these certificates as evidence of their pay and tax deducted in order to support the income declared on their tax return.

Form C11 contains a box for the contractor to confirm the subcontractor's tax code. If the subcontractor holds a valid tax exemption certificate, the code will be NT, meaning no tax will be deducted. However, if a valid certificate is not held, the code will be HR, meaning tax will be deducted at a rate of 20%. The form also asks the contractor to state the period to which the payment relates.

At the end of each tax year, the subcontractor should receive a form [C14 "Isle of Man Subcontractor's Deduction Card"](#) from the contractor. This will record the amount of gross labour paid, the amount of materials, and the total tax deducted together with the subcontractor's personal details and, where appropriate, their tax exemption number. This form should be submitted with the subcontractor's income tax return.

I want to know about my personal income tax obligations

Submission of income tax returns

Income tax returns are normally issued shortly after the end of the relevant tax year on 5 April for individuals or partnerships and after the end of the relevant accounting period for companies. If a return form has not been received, the Income Tax Division should be contacted.

The normal date for submission of income tax returns for individuals and partnerships is 6 October following the end of the relevant tax year while for companies it is 12 months after the end of the relevant accounting period.

All self-employed income or company profits must be declared on the return and should be supported by the C11 and C14 forms received from contractors (see "[What are my obligations as a subcontractor](#)"), together with self-employed or company accounts.

Failure to submit an income tax return on time could result in a late return penalty.

Making payment

Income tax and Class 4 National Insurance for self-employed individuals are usually subject to the "payment on account" system. This means that a subcontractor may receive a payment on account request which will be due for payment on 6 January in the year of assessment.

However, once the subcontractor has submitted their tax return and accounts for that tax year, they will receive both a tax and a Class 4 National Insurance assessment showing their total liabilities for the tax year and any balance that remains due.

If a subcontractor has not held a valid tax exemption certificate during the tax year, any tax that has been deducted by the contractor will be credited against their income tax assessment. Any credit will be refunded and any outstanding amount will be due and payable on 6 January following that tax year, or within 30 days of the date of the assessment, whichever is the later.

Please note that subcontractor tax deductions are always credited to the year in which they are deducted.

If a subcontractor has held a valid tax exemption certificate during the tax year, they may not have had any tax deducted to offset against their income tax and Class 4 National Insurance assessments. In this case, it is important that they set money aside on a regular basis so that they can pay the tax and Class 4 liabilities as they become due and payable.

To assist in meeting their liabilities, subcontractors can choose to make payments to the Division in advance of their tax assessment or payment on account request being issued. Further information and standing order details can be obtained by contacting the Division.

Interest can be charged on overdue income tax and Class 4 National Insurance. Therefore, it is important that any liabilities are paid by the due date.

If the individual's tax return is not sent in on time, an estimated assessment may be issued and any liability shown will be payable within the same time limits. A penalty for late submission of the return may also be raised.

I want to know about being a UK or overseas subcontractor

If the subcontractor is an individual

If the subcontractor is an individual and will be present in the Island for less than 183 days in any tax year, they should have income tax deducted at the rate of 20% as they may have a non-resident tax liability. It may be possible for them to reclaim all or part of the tax that has been deducted if a double taxation agreement applies. They should contact the Income Tax Division directly if they believe they may be due a repayment of tax.

A subcontractor who is in the Island for 183 or more days in any tax year may be deemed to be resident for Isle of Man income tax purposes and charged as a resident to income tax from the date of arrival.

If the subcontractor is a company or business enterprise

If the subcontractor is a company or business enterprise, they may be liable to non-resident tax if they operate through a permanent establishment in the Island or if they will be engaged on a site for a period of more than 12 months.

Exemption certificates

UK and overseas individuals may apply for an Isle of Man tax exemption certificate once they have been resident in the Island for six months.

UK and overseas companies or business enterprises may apply for an Isle of Man tax exemption certificate if they can demonstrate that they are authorised to receive payments gross in the UK.

For further information, please contact the Division on 01624 685400.

I want to know what obligations a contractor has to their subcontractor

A contractor is obliged to ensure that, when making payments to subcontractors or deducting tax from those payments, they comply fully with the requirements of the Isle of Man Construction Industry Scheme. They should:

- notify the Income Tax Division when they engage a subcontractor by submitting form [C20 "Subcontractor Commencing"](#) within 14 days of the date of their engagement;
- confirm whether the subcontractor holds a valid tax exemption certificate and deduct income tax from any payments where a valid certificate is not presented;
- remit any income tax deducted to the Division by the due date;
- issue a form [C11 "Certificate of Tax Deducted in Respect of Subcontracted Work"](#) to the subcontractor each time a payment is made;

- complete a form [C14 "Isle of Man Subcontractor's Deduction Card"](#) at the end of the tax year and give a copy to the subcontractor for their records;
- notify the Division within 14 days when they cease to engage a subcontractor and they have no intention of engaging them in the future by using form [C21 "Certificate of Payments and Tax Deducted for a Part Year"](#).

If the subcontractor does not receive a C11 or C14 when they are due, they should request them from the contractor as the details are required for the subcontractor's income tax return, and the forms may be requested by the Division. If, after requesting these forms from the contractor, they are still not provided, the subcontractor should contact the Division. If the subcontractor does not have the forms, it may not be possible for any tax deducted to be credited to their account.

I want to know about engaging subcontractors of my own

It is possible to be a contractor and a subcontractor at the same time. Construction businesses are often paid by a contractor for doing construction work, while at the same time paying their own subcontractors to do work for them. When being paid by a contractor to do construction work they are subcontractors and must follow the guide for subcontractors. When paying their own subcontractors they are a contractor and must follow GN 21 - Contractor's Guide.

What's new from 6 April 2011?

No changes have been made to the scheme for the tax year commencing 6 April 2011.

Contact details

Please do not hesitate to contact the Division with any questions about the scheme.

Address	The Treasury Income Tax Division Second Floor Government Office Buck's Road Douglas Isle of Man IM1 3TX
Telephone	(01624) 685400
Fax	(01624) 685351
E-mail	incometax@itd.treasury.gov.im
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Copies of all forms and guides mentioned in this booklet can be obtained from the Division by phoning 01624 685400.