



M-009

TAX IN THE CONSTRUCTION INDUSTRY

TARGET AUDIENCE & DESCRIPTION:

This document is intended for clients, contractors and sub-contractors within the Scottish Construction Industry. It introduces and briefly describes tax issues that are relevant to construction.

1. INTRODUCTION

This information sheet explains and clarifies tax issues within the construction industry such as capital allowances, VAT stamp duty land tax and exactly how the construction industry scheme works for tax purposes. It is intended for all individuals who require a practical and detailed guide to the workings of tax and how it applies to the construction industry.

2. CAPITAL ALLOWANCES

Capital allowances are a form of tax relief on plant and machinery purchased.

To 5 April 2010, the Annual Investment Allowance stood at £50,000. This has risen to £100,000 for the 2010/11 tax year. This effectively means there is a 100% write off against taxable profits in that year up to £100,000 should this amount be invested.

From 2012 the AIA is to be reduced to £25,000. It may therefore be advantageous to invest now whilst more allowances are available.

The investment in energy efficient equipment, eg solar panelling, also allows a 100% write off against taxable profits. If this option forms part of a tender, this could save a significant amount of tax for your client and may be the deciding factor as to whether you win or lose a contract. A list of qualifying items can be found at the following website address: www.eca.gov.uk

It is also possible for commercial customers to claim capital allowances on building structures when there is an element of integral features involved. HMRC allows a flat rate percentage of integral features and other fixtures on which capital allowances may be claimed. A more detailed review may allow a much higher claim to be made.

3. VAT

VAT is a very complex area for the construction sector. At present, VAT is currently charged at 17.5%, although it is increasing to 20% from 4 January 2011. From April 2010, any business which has an annual taxable turnover of £70,000 is required to be VAT registered. VAT returns



are required to be filed either monthly or quarterly with HMRC. All new VAT registrations, and businesses with over £100k turnover, must file their VAT returns and pay their liability online. Returns and payments are due the month after the quarter is finished.

In the construction industry, most work will be standard rated ie 17.5%, however there may also be work that is zero or reduced rate. Depending on the work that is carried out, this determines the rate to be charged.

There can be issues regarding the option to tax of land and buildings. With no election made, all rental income, sales and purchases of land or buildings are exempt as are any costs in relation to rental and therefore no VAT can be reclaimed on any expenses incurred.

However if the land or building is within the 'opt to tax' VAT arrangement, then all income will be chargeable to VAT and the VAT on expenses would then be able to be claimed. This can be to the owners advantage especially when the person renting the building is also VAT registered. The two main disadvantages are Stamp Duty Land Tax is paid on the VAT inclusive amount and VAT is due on the onward sale.

It must also be noted however, that when selling a building which is adapted to be used for residential purposes the option to tax will not apply. If the building

has an option to tax over it, there may be revocation procedures in place.

4. STAMP DUTY LAND TAX

Stamp duty land tax is paid when land is purchased and it is over the SDLT threshold.

Within the construction industry, the main occasions which cause problems for SDLT are as follows :-

Linked transactions

This occurs when there is more than 1 transaction between the same buyer and seller or they are connected in some way. In such an occasion, HMRC look at the total value of all of the transactions, even if on separate documentation. There is no time limit between the various transactions and this can have a serious impact on the tax liability due. For example, if the ground level of the warehouse is purchased by B from A, then 6 months later the first level of the warehouse is purchased by B from A, HMRC may deem these to be linked.

Exchange transactions

In current market conditions it is becoming common for construction firms to offer 'swaps'. When a house-building company buy a house from an individual, there may be no SDLT liability as long as the individual buys another house from that builder. The individual must have lived in the house in the past 2 years and intend to have the new house as their main residence, to ensure that the transaction is exempt.

Other areas to be aware of with regards to SDLT are alternative property financing and buying properties, then leasing back to the occupants.

5. CONSTRUCTION INDUSTRY SCHEME

The Construction Industry Scheme covers payments to and from contractors and subcontractors for construction work in the construction industry.

Under CIS a subcontractor is defined as anyone who carries out construction work. This does not have to be done by the individual, it could also be done via employees or through the individuals own subcontractors.

It includes work carried out in relation to general construction such as bricklaying, roofing, but also decorating, demolition and dismantling work. However architects, surveyors and carpet fitters are all outwith the scheme. HMRC have also stated that when a contract is less than £1,000 excluding material costs,



it is exempt from the scheme.

Being part of the CIS scheme means that returns are required to be submitted each month stating payments that have been made to subcontractors and received from subcontractors you have done work for. It is common in the construction industry that an individual or business can be contractor and a subcontractor to other firms. In such a circumstances both set of rules must be followed to ensure that they are dealt with correctly through the PAYE system.

CIS is dealt with in 2 different ways, either gross or under deduction of tax. Under the gross payment, no tax is paid and instead it is paid via the individual tax return submitted for the year. This option has the obvious cash flow advantages, especially if income is low and a refund is gained after the submission of the tax return. There are various criteria that must be met for gross payments to be made.

When taxed under deduction, the tax is paid at 20% from the income that is received. The amount entered is then deducted from the tax liability calculated from the tax return submitted to HMRC. Both options result in the same tax being paid, the only difference is the cashflow and ease of record keeping.

Construction businesses also have to adhere to corporation tax, income tax and capital gains tax not to mention health and safety procedures and trying to run a business. If you would like any further information please contact lyndsey.orrock@eqaccountants.co.uk

Disclaimer: We make every effort to ensure that the information provided is accurate and up to date, however, EQ cannot be held responsible for any action taken, or not taken, as a result of reading this information sheet.

TITLE/DESCRIPTION	LINKS
EQ Accountants	http://www.eqaccountants.co.uk/
Amber Accounting	http://www.amberaccounting.co.uk
Construction Industry Scheme	http://www.hmrc.gov.uk/cis/
Capital allowances investment schemes	http://www.hmrc.gov.uk/capital_allowances/investmentschemes.htm
VAT	http://www.hmrc.gov.uk/vat/index.htm
Stamp Duty Land Tax	http://www.hmrc.gov.uk/sdlt/index.htm