



Inland
Revenue

Construction Industry Scheme

Conditions for getting a Subcontractors Tax Certificate



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IR14/15(CIS)	Construction Industry Scheme

IR109	Employer compliance reviews and negotiations
IR116(CIS)	Guide for subcontractors with tax certificates
IR117(CIS)	Guide for subcontractors with Registration Cards
IR175	Supplying services through a limited company or partnership
IR180(CIS)	Construction Industry Scheme. A guide for non-residents
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- phone or textphone (for Minicom users) on **0845 9000 404** between 8.00am and 10.00pm
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When our offices are closed, you can get advice on the Construction Industry Scheme by calling our

- Contractors Helpline, on **0845 733 55 88**, open Monday to Friday 8.30am to 5.00pm, or
- Subcontractors Helpline, on **0845 300 05 81**, open 7 days a week 8.00am to 8.00pm.

For advice on Self Assessment you can call our

- Self Assessment Helpline, on **0845 9000 444**, open evenings and weekends.

To register as a contractor and so that we may send you the necessary vouchers and Contractors' Pack, please ring our

- New Employers' Helpline on **0845 60 70 143** (Textphone **0845 602 1380**), open Monday to Friday 8.00am to 8.00pm and weekends 08.00am to 5.00pm.

Helpline and Orderline calls are charged at local rates.

Our Helplines are unable to issue vouchers used in operating the Construction Industry Scheme. If you need more vouchers, please contact your own Tax Office.

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This leaflet sets out the conditions you have to meet before you can get a Subcontractors Tax Certificate

Section 1 - Tests for certificate applications

Not everyone is entitled to receive a Tax Certificate. Most subcontractors will hold Registration Cards and receive payments after deduction on account of tax and National Insurance contributions (NICs). If you do have a Tax Certificate, a contractor will be able to make payments to you in full.

The certificate is an important document. You will get one only if you are carrying out construction operations in the United Kingdom, your business has a turnover from construction work over a certain amount and you have a good record of submitting your returns and paying your tax and NICs on time.

You have to pass three tests to get a certificate.

- Business test
- Compliance test
- Turnover test.

If you fail any of the tests, you will not get a Tax Certificate, but you will get a Registration Card.

Business test

Your business must be

- carrying out construction work in the UK or providing labour for such work
- run through a bank account
- run with proper records
- run from proper premises with proper stock, equipment and other facilities.

Whether your premises, stock and so on are appropriate for conducting a business will depend on the nature and scope of the business and we will take this into account.

Compliance test

For this test the period of three years ending with the date of application is known as the 'qualifying period'. For all periods ending within the qualifying period you must have

- completed and returned all tax returns sent to you
- supplied any information to do with your tax that the Tax Office has requested
- paid all tax due from yourself or your business
- paid all your own NICs
- paid any PAYE tax and NICs due from you as an employer
- paid any deductions due from you as a contractor in the construction industry.

You must have done all this on time - it is not enough to bring your affairs up to date before your application. Your record must be good enough to convince the Tax Office that you can be relied on to handle your tax affairs properly in the future. However, if we consider any failings to be 'minor and technical' you may still pass this test. For full details of what we mean by 'minor and technical' see Appendix 2 on page 14 of this leaflet.

Turnover test

This test is based on net turnover. By 'net turnover' we mean gross income from construction work less cost of materials. For a fuller explanation, see Appendix 1 on page 11 of this leaflet.

There are three different turnover tests; the standard three-year test, the six-month test and the alternative test. The alternative test only applies to companies and partnerships. The amount of 'net turnover' that you have to have depends on whether you are in business as an individual, a partnership or a company.

TABLE OF TURNOVER TESTS			
	SOLE TRADERS	PARTNERSHIPS	COMPANIES
<u>STANDARD TEST</u> 3 years within the 4 years to date of application. Averaging applies	£30,000 each year	£30,000 x number of partners	£30,000 x number of 'relevant persons'
<u>SIX - MONTH TEST</u> 6 consecutive months within the 12 months to date of application, or shorter period	£21,000 within 6 months	£21,000 x number of partners	£21,000 x number of 'relevant persons'
<u>ALTERNATIVE TEST</u> 3 years within the 4 years to date of application. Averaging applies		£200,000 each year	£200,000 each year

In all the tests, your net turnover for the test period is compared with the threshold set by law for that test. There are two basic thresholds in the tests. The individual threshold, currently set at £30,000, is the amount of annual net turnover a sole trader needs to meet to pass the turnover test. For partnerships and companies, this amount is multiplied by the number of participants in the business. The other threshold, currently set at £200,000, is the amount of annual net turnover a partnership or company has to meet for the alternative turnover test.

If you decide to apply for a certificate, please read the Notes provided with the application form for full details of the turnover tests. It is up to you to decide which test or tests to use. The Notes include working sheets to use if you want to see whether you would pass.

Sole traders

Sole traders can choose from two tests

- the standard test, if you have been in business for three or more years, or
- the six-month test.

The standard test looks at three consecutive years in the four years up to the date of your application. To pass this test you have to show that your business has a net turnover from construction work of at least £30,000 a year. If you meet the turnover

threshold for two of the three years, you can still pass if your average annual net turnover across those three years is at least 90% of the average of the thresholds for the three years (the 'averaging rule'). For example, if your net turnover is, say, £32,000 in each of two of the three years, you can still qualify if your turnover for the other year is at least £17,000 ($£32,000 + £32,000 + £17,000 = £81,000$ which is 90% of £90,000).

In the six-month test you have to show that your business has a net turnover from construction work of at least 70% of the annual £30,000 threshold (that is, £21,000) in a period of no more than six consecutive income tax months in the twelve months up to the date of application (a tax month runs from the 6th of one month to the 5th of the next).

Partnerships

Partnerships can choose from three tests

- the standard test
- the six-month test
- the alternative test.

The standard test for partnerships works the same way as the standard test for sole traders as explained on page 3, but with the threshold of £30,000 multiplied by the number of partners. So a partnership of two would have to show net turnover from construction work of at least £60,000 a year. If the partnership meets the turnover for two of the three years it can still pass if its average annual net turnover across those three years is at least 90% of the average of the thresholds for the three years (the 'averaging rule'). For example, if the partnership's net turnover is, say, £65,000 in each of two of the three years, it can still qualify if its turnover for the other year is at least £32,000 ($£65,000 + £65,000 + £32,000 = £162,000$ which is 90% of £180,000).

In the six-month test, a partnership of two would have to show that its business has a net turnover from construction work of at least 70% of the annual £60,000 threshold (that is, £42,000) in a period of no more than six consecutive income tax months in the twelve months up to the date of application (a tax month runs from the 6th of one month to the 5th of the next).

Like the standard test, the alternative test looks at three consecutive years in the four years to the date of application and the 'averaging rule' also applies. However, unlike the standard test, it does not look at the number of partners. For the alternative test, a partnership, regardless of the number of partners, would have to show a net turnover from construction work of at least £200,000 in two of the three years and sufficient turnover in the third year to achieve a total net turnover for the three years

of at least 90% of the threshold for the three years. For example, where a partnership's turnover is, say, £210,000 and £220,000 in two of the three years, it can still qualify if its turnover for the third year is at least £110,000 ($£210,000 + £220,000 + £110,000 = £540,000$ which is 90% of £600,000).

Where a member of a partnership is itself a company, the partnership would probably use the alternative test. If such a partnership used the standard test, it would have to meet a total threshold of all the thresholds for the individual partners plus all the thresholds for the company partners. Each company threshold is based on the number of directors (and shareholders where the company is close). The company threshold is explained below.

Companies

Companies that are wholly owned by parent companies which themselves have valid certificates under the Scheme do not have to pass the turnover test. Other companies, like partnerships, can choose from three tests.

- the standard test
- the six-month test
- the alternative test.

In the standard test for companies, the individual threshold of £30,000 is multiplied by the number of relevant persons in the business. By 'relevant persons' we mean each director and, if the company is close (that is, broadly, controlled by five or fewer people), each shareholder. However, where a person is both a director and a shareholder, he or she counts as one relevant person. So, if your company is close and features three shareholders, two of whom are also directors, the annual threshold for your business would be £90,000 ($£30,000 \times 3$ relevant persons).

The averaging rule as explained on page 4 applies. If the company meets the turnover for two of the three years it can still pass if its average annual net turnover across those three years is at least 90% of the average of the thresholds for the three years. So a company with three relevant persons would have to show net turnover from construction work of at least £90,000 in any two of the three years and sufficient turnover in the third year to achieve a total net turnover for the three years of at least 90% of the threshold for the three years. For example, if a company with three relevant persons has a turnover of, say, £92,000 and £94,000 in two of the three years, it can still qualify if its turnover for the third year is at least £57,000 ($£92,000 + £94,000 + £57,000 = £243,000$ which is 90% of £270,000).

In the six-month test, a company with three relevant persons would have to show that its business has a net turnover from construction work of at least 70% of the annual £90,000 threshold (that is, £63,000) in a period of no more than six consecutive income tax months in the twelve months up to the date of application (a tax month runs from the 6th of one month to the 5th of the next).

For the alternative test, a company, regardless of the number of relevant persons, would have to show a net turnover from construction work of at least £200,000 in two of the three years and sufficient net turnover in the third year to achieve a total at least equal to 90% of the threshold for the three years. For example, where a company's turnover is, say, £205,000 and £215,000 in two of the three years, it can still qualify if its turnover for the third year is at least £120,000 ($£205,000 + £215,000 + £120,000 = £540,000$ which is 90% of £600,000).

New businesses: sole traders, partnerships and companies

A new business will be unable to use any of the three-year tests. However, it will be able to use the six-month test as soon as it has generated sufficient net turnover to meet 70% of the annual figure for that type of business, without waiting the full six months. Until a Tax Certificate is issued, a new business will have to use a Registration Card and receive payments under deduction.

Change in the status of a business

The current certificate cannot be used if there is a change in the status of the business, for example

- a sole trader becomes a partner in a firm
- a partnership or sole trader becomes a company, or
- a partner or company director starts a business on his or her own.

A change of this type creates a new business that will need a new certificate. In all such cases the applicant will have to go through the statutory tests again in the same way as a completely new business. Normally, this means that the six-month turnover test will have to be used.

However, if the new business is essentially the same as the old business (that is, the same owners, assets, goodwill and trade), the new business may apply immediately on the basis of turnover earned by the old business. In this case the three-year or six-month turnover test may be used depending on how long the old business existed. The exact details of how the three-year test is applied depend on the circumstances of the case.

Situations in which we would **not** regard the new business as being the same as the old include

- the transfer of the assets, goodwill and trade of one company to another company
- a sole trader transferring the trade to a company, but only acquiring a limited interest in the new business
- a partnership dissolving and one or more partners continuing to operate as sole traders.

Change within a business

Where the number of partners in an existing partnership, or directors/shareholders in an existing company, changes, but there is no change to the business, the business does not need to go through the turnover test again during the validity of its certificates, unless the Inspector has reason to think there was deliberate manipulation of the numbers to reduce the threshold. New partners/directors can apply for additional certificates. When the certificates need to be renewed, the business has to go through all the tests again and the change in the number of persons will be accounted for in applying the turnover test.

You do need to tell us about any change in the control of the business. This may not affect the turnover test, but we will want to check that the new partners or directors (and shareholders, if the company is close) pass the compliance test.

Section 2 - Other information

Application forms

Sole traders

You must use application form CIS2(Individual), which you can get from your Tax Office. To apply for a certificate you should fill in the form, supply a photograph as required and go to the Tax Office for an identity check.

Partnerships

You must use application form CIS3(Partner), which should be filled in by the 'nominated partner'. The 'nominated partner' and each other partner who wants a certificate must also fill in a form CIS9(Partner), supply a photograph and attend the Tax Office for an identity check.

The nominated partner will be the first partner who applies for a certificate from the partnership. Ideally, the partnership should agree who this person will be before the forms are completed for any of the partners.

Partnerships, consortia or joint ventures that feature only companies as members should apply on the company application form CIS3(Company) where possible, with full details set out in a covering letter. The letter should say how the turnover figures on the form were arrived at and attach accounts and information about the member companies, including the legal status of the partnership or venture. These applications may be based on any of the turnover tests, even if the partnership or venture itself is new.

If you are not sure which form is appropriate for you, please contact your Tax Office before making the application. Using the wrong form or not giving all the information can cause delays.

The normal certificate issued to partners is the CIS6. The other certificate, CIS5(Partner), is issued only to a nominated partner within a partnership that can meet certain requirements. There are special rules for applying for a CIS5(Partner) certificate. For further details, see Appendix 3 on page 20 of this leaflet.

Companies

Companies should use application form CIS3(Company) and any director or company secretary wishing to hold a certificate must fill in a form CIS8(Director), supply a photograph and attend the Tax Office for an identity check.

The normal certificate issued to a company is the CIS6. The other certificate, CIS5, is issued only to companies that can meet certain requirements. There are special rules for applying for a CIS5 certificate. For further details, see Appendix 3 on page 20 of this leaflet.

Processing applications

We can deal with most renewal applications quickly, but for all first applications you should allow at least one month for the Tax Office to examine your application and notify you of approval. In complex cases, examination may take much longer; if it does, we will let you know. Examples of complex cases are

- partnership or company applications where the partners' or directors' affairs have to be reviewed
- joint applications
- cases where the facts are difficult to establish
- cases where we doubt that you have passed the compliance test.

After receiving notification of approval, you should allow ten working days for the certificate to be prepared and sent to you. If you have not received the certificate by then, please contact your Tax Office.

Certificates

If you get a certificate by passing either of the three-year tests, it will be valid for three years. If you get a certificate by passing the six-month test, it will be valid for one year only. A certificate is an important document. Where it is misused, for example, if you allow another person to use it, we may cancel the certificate.

Appeals

If we refuse your application, you will have the right to appeal to an independent tax tribunal, the Appeal Commissioners. They decide whether or not we were right to refuse your application. In the meantime, you must use a Registration Card and receive payment under deduction.

Other guidance

Our booklet IR14/15(CIS) 'Construction Industry Scheme' contains information on how the Construction Industry Scheme operates. See the inside front cover for details of how to get a copy. We provide more details about the qualifying tests, and examples and worksheets for the turnover test, in the Notes with the application form. We provide full guidance to our staff on handling certificate applications in our CIS Manual. The CIS Manual may be viewed at any Tax Office or on the Inland Revenue website at www.inlandrevenue.gov.uk/manuals/cismanual

Section 3 - Appendices

Appendix 1 - *Definition of net turnover*

Net turnover means gross construction turnover less the direct cost of materials used to earn that turnover. Gross construction turnover should exclude Value Added Tax (VAT). The direct cost of materials should also exclude VAT **unless** you are not registered for VAT in which case you may include any VAT that you have paid on the purchase of those materials.

Gross construction turnover

For all tests, 'gross construction turnover' means payments you receive from work falling within the description of 'construction operations'. This includes payments for construction work you undertake for clients who do not have to operate the scheme, such as private householders. If you are using the six-month test, you should show the actual amount you **received** in the period and not just what you have invoiced. Where you are using a three-year test on the basis of accounts, we would not expect you to adjust figures for gross construction turnover and materials for debtors or creditors to arrive at the net 'payments received' in the three years. Just use the figures earned for construction operations, as shown in your accounts.

Broadly speaking, construction operations cover building and construction work, installation, repairs, decorating and demolition. For more information on this, see Chapter 7 and Appendix B of our booklet IR14/15(CIS). If you are not sure whether all or part of your work should be included you should contact your Tax Office.

Materials

By 'cost of materials' we mean the direct cost to you of the materials used in carrying out the construction work. If, in the course of your work, you pay other subcontractors who bear the cost of materials, you should not take that into consideration. However, if another person pays for materials and you later reimburse him or her for that expense, you should treat that as cost of materials. Here is a summary of the meaning of 'materials' for the turnover test.

- **Materials**

- land
- building materials
- consumable stores
- fuel for plant and generators
- actual cost of plant hired by you
- Construction Industry Training Board (CITB) levy

- **Not Materials**

- subsistence payments
- fuel for cars, vans and transport
- cost of scaffolding purchased by scaffolding subcontractors

Example of net turnover

Gross construction turnover exclusive of VAT		£175,000
less materials exclusive of VAT		
actual cost to you of building materials	£25,000	
consumable stores	£1,000	
actual cost of plant hire	£5,000	
CITB	<u>£1,000</u>	
Net turnover		<u>£32,000</u> £143,000

Evidence of net turnover

If you use the six-month test, you must provide a statement of evidence of your net turnover with the application form so that we can check the accuracy of your application. This statement must show the dates and amounts of payments you received and the cost of your materials. It should cover

- payments vouched on Tax Payment Vouchers CIS25 (in support of your application we may need to see the CIS25 vouchers you hold for the period used)
- payments vouched on Gross Payment Vouchers CIS24, plus cost of materials for CIS24 payments
- payments for construction work not recorded on vouchers under the Scheme, plus dates and cost of materials. You should send your copy of sales invoices plus your record of payments received for the period, as kept for Self Assessment purposes.

If you use either the standard or the alternative three-year test, we may ask you to provide evidence of your net turnover following our receipt of your application form so that we can check its accuracy, particularly if you use turnover from a period for which accounts have not yet been drawn up. This evidence must take the form of accounts, vouchers completed under the Scheme, or other documentary evidence of the payments received.

If you supply false information to try to obtain a certificate, you will be refused a certificate for at least three years and will be liable to a penalty of up to £3,000. You may even be prosecuted.

Appendix 2 - Minor and technical failures

Introduction

How does the 'minor and technical' rule work?

The rules require the applicant for a Tax Certificate to have met all obligations under the Taxes Acts and the Social Security Act for periods ending within the three-year qualifying period. However, we will treat you as satisfying our requirements if we consider that any failure in that time is **minor and technical** and does not give us reason to doubt that you will meet your obligations in future.

You must have met all tax and NICs obligations in the qualifying period at the time they arose. It is not acceptable for you merely to bring your tax affairs up to date at the time of your application. We will consider not only whether a failure in itself is 'minor and technical', but also whether a failure to comply on time could be so described.

Purpose of this Appendix

This Appendix indicates the types of compliance failure that we are likely to accept as minor and technical and those that we would not. However, it is important not to regard this guidance as a straitjacket. Each case will be treated on its merits and any failure will have to be considered within the context of that applicant's overall compliance record. Where the applicant is a contractor, we will take into account the size and complexity of the contractor's obligations under the Scheme.

It would be impossible to define every combination of compliance failures. These guidelines set out specific examples of what is, in isolation, a minor and technical failure and what is not. Inspectors will apply their judgement to failures, or combinations of failures, which fall into the middle ground. As a general principle, you should be aware that a failure we regard as minor and technical if it happens only once, may not be regarded as minor and technical if it is repeated a number of times.

We take a very strict view where we believe the failures are not minor and technical and will always refuse your application in these circumstances.

Application of 'minor and technical' rule

Part A - What sort of failure would be minor and technical?

SUBCONTRACTOR OBLIGATIONS

Returns

A failure to submit a Self Assessment tax return on time which did not attract a penalty (perhaps because of a successful appeal), or where the penalty is cancelled because there is no outstanding tax, would be regarded as minor and technical. Where a return was late and there was a penalty other than a continuing daily penalty, but the penalty was paid promptly and the delay had not resulted in the postponement of a significant amount of extra tax, the failure would be regarded as minor and technical.

Payments of personal income tax or corporation tax

Generally, a payment which is late but which does not attract a surcharge would be regarded as a minor and technical failing.

Vouchers

Subcontractors with CIS6 certificates must provide vouchers to contractors for payments received. Minor and technical failures to comply with the voucher obligations would include

- an occasional delay in providing the voucher to the contractor
- transposed or slightly incorrect figures on a voucher
- occasional omissions, such as a signature or payment date.

CONTRACTOR OBLIGATIONS

End of year returns

Many subcontractors applying for certificates will also be contractors or employers and will have to make end of year returns of deductions from payments to their workers. Some contractors may also have details of gross payments to return. A return received later than the time specified in the notice, but where no penalty is charged - or further time had been given for the return before it became due - would be classed as a 'minor and technical' failing.

These returns are important documents and we expect each one to be correct. However, we will disregard small errors such as an occasional transposition of figures or incorrect addition. Likewise, we would consider occasional omissions such as a

failure to sign or date a return minor and technical, as long as the return is signed and dated promptly at our request and the omission of a signature does not occur more than twice. Omissions of income will **not** be treated as minor and technical.

Payments

PAYE and any deductions from subcontractors are due to be paid over to us on a monthly basis (with smaller businesses having the option of quarterly payments). Generally, we would regard one or two late payments of these deductions made within fourteen days of the due date as a minor and technical matter. Payments made under instalment agreements that were agreed **before** the failure took place will be regarded as minor and technical.

Vouchers

Contractors are required to take reasonable steps to obtain Gross Payment Vouchers covering all payments to subcontractors holding CIS6 certificates and to enter their tax reference on them. Contractors are also required to complete Tax Payment Vouchers and vouchers for certain types of certificated subcontractors (holders of CIS5 and CIS5(Partner) certificates). We would normally accept as minor and technical any errors in the information entered where they are small, or do not cause significant loss or delay in payment of deductions to us.

Contractors are required to submit all payment Vouchers on a monthly basis (even smaller businesses who pay tax quarterly have to submit the vouchers monthly). With the emphasis on timely compliance, contractors must be careful about meeting these obligations. However, we will regard as a minor and technical failing an occasional slight delay of a few days in providing Tax Payment Vouchers to subcontractors or submitting any type of voucher to us.

Inspection of Tax Certificates and Registration Cards

Contractors are also required to inspect certificates (or, in the case of subcontractors holding CIS5 or CIS5(Partner) certificates, certifying documents) and cards, and we may impose penalties for non-compliance. So long as we are satisfied that a contractor has inspected and taken reasonable steps to check the validity of certificates and cards, and no penalties have arisen, we would generally treat a failure to identify an incorrectly used document as a minor and technical matter.

Part B - What sort of failure would NOT be minor and technical?

These examples are given solely to illustrate the sort of cases that are unlikely to meet the compliance tests. It must be stressed that we will consider each category in the light of the applicant's compliance with all obligations.

An application for a certificate is likely to be in jeopardy if any of the following applies within the three-year qualifying period. Any combination of these factors will almost certainly put your application at risk.

- Non payment of personal income tax or corporation tax
 - we have taken formal proceedings for recovery of unpaid liabilities
 - an investigation has revealed general tax irregularities for periods ending within the qualifying period and outstanding liability has not been paid or payments under an instalment offer have lapsed.

- Abuse of the Scheme
 - we have imposed penalties or have instigated criminal proceedings on the basis of evidence of misused Scheme documents
 - a contractor has understated deductions from subcontractors
 - a subcontractor has attempted to claim excessive repayment of deductions.

- Late payments
 - two or more surcharges are incurred for late payment of tax
 - PAYE or subcontractors' deductions (other than trivial amounts) are paid more than 14 days late three or more times
 - PAYE identified on a formal notice to pay which we have issued because we have not received your payments on time, whether or not the payments specified are 14 days late
 - failure(s) to pay the correct amount during the year, whether or not the outstanding surplus is paid before the 19th May following the tax year
 - agreement to pay amounts by instalments where the payments were already late **before** the agreement was reached
 - failure to keep to an instalment agreement.

- Returns
 - automatic penalties are incurred on two or more occasions for the late filing of returns
 - any return remains outstanding two months after the filing date and there is no reasonable excuse for the delay
 - continuing daily penalties are incurred
 - repeated failure to sign and date returns.

- Voucher failures
 - a contractor has persistently failed to provide Tax Payment vouchers CIS25 to subcontractors
 - a subcontractor has persistently failed to give Gross Payment Vouchers CIS24 to contractors within the 14-day period or has failed to give a voucher for a substantial payment
 - a contractor has persistently failed to submit vouchers to us
 - a contractor has been persistently late in submitting correctly completed vouchers to us.

- Failure to inspect Tax Certificates or Registration Cards
 - a contractor has made a payment to a subcontractor who does not have a registration card or certificate at the time of payment
 - a contractor has penalties for failing to take reasonable steps to ensure a certificate or card is valid.

- Incorrect certificate application
 - a subcontractor has provided false information in an application for a certificate.

Part C - Some common questions

How many 'minor and technical' failings will you overlook?

Where the failings are errors in handling vouchers, we will take the size of the business into account. The question to ask will be whether the errors are out of proportion to the size of the business. Where the failings are other 'minor and technical' points, we will consider the full facts of the case. We will be more likely to overlook isolated and clearly separate incidents, but will not overlook persistent failures, particularly those involving late payments of tax or the late submission of vouchers.

What happens if my business is affected by illness of the directors/partners?

We will bear in mind the size of the business. If it relies on one person, and that person falls ill for a period of weeks or months, we will take that into account. Even where the sole trader or main director/partner is ill, we would still expect reasonable payments on account to be made for PAYE and CIS deductions. As stated above, non-payment is not a 'minor and technical' matter.

I've been made bankrupt through no fault of my own - can I still get a certificate?

Before we can issue a certificate we must check that you meet all the qualifying conditions. Among other things, we must be satisfied that you will comply with future tax obligations and that you have met past obligations. Insolvency proceedings mean that, for whatever reasons, you have failed to meet some financial liabilities in the past. This may call into question your ability to pay tax properly in the future.

Moreover, if the insolvency proceedings include unpaid tax due in the three years up to the date of your application, we have to treat you like any other applicant who has not paid tax. In this case we must refuse a certificate on the basis that you have not met your tax obligations in the qualifying period.

Can you take my certificate away once it has been issued to me?

We will only consider withdrawing your certificate during its period of validity if there has been

- a serious irregularity in the operation of the Construction Industry Scheme
- persistent failure to comply with any of your obligations under the Taxes Acts or the Social Security Act
- complete failure to make payments of tax or submit vouchers, or
- some significant occurrence, for example, where there has been a change in the people running your business that gives us reason to doubt whether you, or your business, will continue to comply with the Scheme.

In all such cases, we will normally give you some form of prior warning. However, there may be occasions where, **exceptionally**, immediate action to withdraw your certificate **without warning** will be the only way in which the Inland Revenue can be protected.

In all cases where we do take action to cancel your certificate you will have the right of appeal to the Appeal Commissioners (see under 'Appeals' on page 10).

Appendix 3 - Issue and renewal of CIS5 and CIS5(Partner) certificates

Applicants must first pass the statutory tests necessary to get a Tax Certificate before we can consider issuing a CIS5 or CIS5(Partner) certificate.

CIS5 and CIS5(Partner) certificates will only be issued to and renewed for the following categories.

- Public companies listed on the Stock Exchange or 51% subsidiaries of such companies.
- Companies that are 51% owned subsidiaries, or associates, of established companies that already hold CIS5 certificates.
- Companies or partnerships that have achieved an annual turnover of at least £1 million.
- Companies or partnerships that can show that operating with the normal company or partnership certificate CIS6 would cause substantial difficulties. Applicants in this category have to supply with their application form a 'business case' setting out their need for a CIS5 or, where appropriate, a CIS5(Partner) certificate. You must be able to demonstrate a need in at least one of the following ways.
 - **Administrative need.** You generate, or would generate, a high volume of vouchers for payments received by you or you have to, or would have to, spend a lot of time travelling specifically to present a CIS6 certificate. By 'high volume of vouchers' we would expect something in the order of 300 a year - with some allowance for subcontractors working for contractors who prefer vouchers per month rather than per payment. By 'a lot of time travelling' we mean a total of at least 200 hours over the last three years or 100 hours in any one year in the last three years.
 - **Commercial need.** Your trade is largely based on work for contractors who give work only to holders of CIS5 and CIS5(Partner) certificates, or you have a firm chance of working for one of those contractors and failure to secure the contract would prevent the growth of your business.

The business case must record

- the number of vouchers you gave to contractors (or, if you are a holder of a current CIS5 or CIS5(Partner) applying to renew your certificate, the number of payments you received from contractors) in the last twelve months, or
- for the period you choose, the time spent travelling, dates, paying office and director or partner involved (or, if you are a holder of a current CIS5 or CIS5(Partner) applying to renew your certificate, an estimate of time potentially involved for each time you used a certifying document) and whether each trip was/would have been solely for the purpose of certificate presentation, or
- the names of the contractors who are said to use only CIS5/CIS5(Partner) holders, the turnover from those contractors and your total turnover or you may cite any agreed or potential contracts for work not yet carried out for such contractors.

Our CIS Manual contains full guidance on the issue of CIS5 and CIS5(Partner) certificates. You can access it at your Tax Office or on the Inland Revenue website www.inlandrevenue.gov.uk/manuals/cismanual

These notes are for guidance only and reflect the tax position at the time of writing.
They do not affect any right of appeal.

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