STATUTORY INSTRUMENTS

2015 No. 789

INCOME TAX
CORPORATION TAX

The Income Tax (Construction Industry Scheme) (Amendment of Schedule 11 to the Finance Act 2004) Order 2015

Made - - - -	*19th March 2015*
Coming into force - -	*6th April 2015*

The Treasury in exercise of the powers conferred by paragraph 13(1) of Schedule 11 to the Finance Act 2004(**1**) make the following Order.

A draft of this instrument was laid before, and approved by a resolution of, the House of Commons in accordance with paragraph 13(2) of Schedule 11 to the Finance Act 2004.

Citation and commencement

1. This Order may be cited as the Income Tax (Construction Industry Scheme) (Amendment of Schedule 11 to the Finance Act 2004) Order 2015 and comes into force on 6th April 2015.

Amendment of Schedule 11 to the Finance Act 2004

2. Part 2 of Schedule 11 to the Finance Act 2004 (conditions to be satisfied by firms) is amended by—

(a) inserting after paragraph 8(5) (the compliance test)—

"(6) This paragraph is subject to paragraph 8A (exception from compliance test: firms).", and

(b) inserting after paragraph 8—

"**Exception from compliance test: firms**

8A.—(1) The conditions in paragraph 8 (the compliance test: firms) do not need to be satisfied by the firm if, at the time of the application—

(a) one or more of the partners is already registered for gross payment as a partner in another firm or otherwise than as a partner in a firm, and

(**1**) 2004 c. 12.

(b) that partner has, or those partners together have, a right to a share of at least half the assets, or at least half the income, of the firm.

(2) In sub-paragraph (1)(a) the reference to registration for gross payment does not include registration for gross payment by virtue of this paragraph or paragraph 12A (exception from compliance test: companies).".

3. Part 3 of Schedule 11 to the Finance Act 2004 (conditions to be satisfied by companies) is amended by—

(a) inserting after paragraph 12(8) (the compliance test)—

"(9) This paragraph is subject to paragraph 12A (exception from compliance test: companies).", and

(b) inserting after paragraph 12—

"**Exception from the compliance test: companies**

12A.—(1) The conditions in paragraph 12 (compliance test: companies) do not need to be satisfied by the company if, at the time of the application—

(a) one or more of its members is registered for gross payment (whether as a partner in a firm or otherwise), and

(b) that member possesses or is entitled to acquire or those members together possess or are entitled to acquire—

(i) at least 50% of the share capital or issued share capital of the company,

(ii) at least 50% of the voting power in the company,

(iii) so much of the issued share capital of the company as would, on the assumption that the whole of the income of the company were distributed among its members, entitle the member or members mentioned in paragraph (a) to receive at least 50% of the amount so distributed, or

(iv) such rights as would entitle the member or members mentioned in paragraph (a), in the event of the winding up of the company or in any other circumstances, to receive at least 50% of the assets of the company which would then be available for distribution among its members.

(2) In sub-paragraph (1)(a) the reference to registration for gross payment does not include registration for gross payment by virtue of this paragraph or paragraph 8A (exception from compliance test: firms).

(3) For the purposes of this paragraph a person is treated as entitled to acquire anything which the person—

(a) is entitled to acquire at a future date, or

(b) will at a future date be entitled to acquire.

(4) Any rights that a member or any other person has as a loan creditor are to be disregarded for the purposes of the assumption in sub-paragraph (1)(b)(iii); and for this purpose "loan creditor" has the same meaning as in Part 10 of the Corporation Tax Act 2010 (close companies)(**2**).".

(**2**) 2010 c. 4. Although Part 10 has been amended none of the amendments are relevant to this instrument.