

Gross-paid subcontractors and the annual compliance review

If you're a subcontractor under the Construction Industry Scheme (CIS) and you receive gross payments from your contractor for the work you do (that means you are paid without having any deductions taken from your payment), you will be subject to a review of your compliance record by HM Revenue & Customs (HMRC). This will apply whether you are self-employed or run your subcontractor business as a company. HMRC do this once a year by running something called a 'Scheduled Review', also known as an 'Ongoing TTQT' (Tax Treatment Qualification Test). This is an automated check on whether you have complied with all your tax obligations as a taxpayer including, if appropriate, as an employer/contractor. This guide will help you to understand why you will be subject to a Scheduled Review, what will happen when you do come under Review and what you can do if you disagree with HMRC's decision

What do HMRC check during the Review?

When HMRC review your payment status they will check whether you (and any partners where you are a partnership) have, or your company has, complied with your obligations as a taxpayer or employer/contractor in the 12 months leading up to the Review.

This means that, during that period, you, your company and any partners in your partnership must have done all the following:

- completed and returned all required tax returns
- supplied any information to do with your tax that HMRC may have requested
- paid by the due dates
 - all tax due from yourself or the business
 - all your own National Insurance contributions (NICs)
 - any PAYE tax and NICs due from you as an employer
 - any deductions due from you as a contractor in the construction industry

What happens if you haven't fully complied with your tax obligations?

When considering whether your compliance history is satisfactory during the 12-month period of the review, HMRC will ignore any, or all, of the following failures:

- three late submissions of the contractor monthly return, including 'nil' returns – up to 28 days late
- three late payments of CIS/PAYE deductions – up to 14 days late
- one late payment of Self Assessment tax – up to 28 days late
- any employer's end of year return made late
- any late payments of Corporation Tax – up to 28 days late, including where any shortfall in the payment has incurred an interest charge but no penalty
- any Self Assessment return made late
- any payment not made by the due date, where it is less than £100

What criteria will lead to your business failing the review?

You will fail the Scheduled Review if any of the following happens during the 12-month review period. HMRC have received:

- your contractor monthly return (including a nil return) late on four or more occasions
- one of your contractor monthly returns more than 28 days late
- your CIS/PAYE deductions late on four or more occasions
- one of your payments of PAYE/CIS deductions more than 14 days late

- one payment of your Self Assessment tax more than 28 days late
- one payment of your Corporation Tax more than 28 days late

Or, at the date of the Review, you have still outstanding an overdue:

- employer's end of year return (form P35)
- Self Assessment return
- Payment of £100 or more

What happens when your business is a company?

If you run your business as a company (rather than being self-employed) HMRC look at the compliance history of the company itself, rather than individual directors or beneficial shareholders within the company.

What happens if you fail the Scheduled Review?

If you fail the Review, your gross-payment status will be withdrawn (that means you will no longer be eligible to receive your payments in full without a deduction taken off).

HMRC will write and tell you that your gross payment status is to be withdrawn in 90 days' time and set out what obligations you have failed to meet. This is to allow you to appeal, if you consider that the decision is incorrect, and to make the necessary adjustments to your business in preparation for the switch from being paid gross to being paid under deduction.

How to appeal if you disagree with HMRC's decision

You have the right of appeal against HMRC's decision to take away your gross payment status, if you believe that the facts are incorrect or that there is some reasonable excuse why you have failed to meet one or more of the listed obligation failures.

You will keep your gross payment status for as long as it takes to resolve the appeal. Only you will know that there is any question as to your entitlement to gross status. Any contractor verifying your business during the appeal process will simply be told to pay you gross.

[More about appeals and other options if you disagree with HMRC's decision](#)

[Read about subcontractor obligations under CIS](#)

[Find out more about Self Assessment tax](#)

[Find out when to submit your Corporation Tax payments](#)

[Top](#)

Reapplying for gross-payment status

If, following a Scheduled Review of your compliance history, HMRC cancel your gross payment registration, you cannot reapply until one year from the date that the cancellation of your gross payment status takes effect. If you appealed over the original decision and the appeal was eventually decided against you, perhaps by the tribunal, you will not be able to reapply until one year after the date your gross payment status was cancelled following the conclusion of the appeal.