

New Compliance Issues with the Australian Taxation Office for taxpayers in the Building & Construction Industry

Dear Client:

Please be aware the recent introduction of new compliance in your industry now requires you to keep accurate records relating to dealings with contractors:

Here is an extract from the website of the Australian Taxation Office that we have compiled, we suggest you read this information memorandum carefully as it may apply to you

Taxable payments reporting – building and construction industry

Overview

From 1 July 2012, businesses in the building and construction industry need to report the total payments they make to each contractor for building and construction services each year. You need to report these payments to us on the *Taxable payments annual report*.



To make it easier to complete the annual report you may need to change the way you collect your contractor information.

Background

As part of the 2011-12 Federal Budget, the government announced the introduction of taxable payments reporting for businesses in the building and construction industry.

The aim of the system is to improve compliance with tax obligations by those contractors who are currently not doing the right thing.

The information reported about payments made to contractors will be used for our data matching to detect contractors who have not:

- lodge tax returns

- included all their income in returns that have been lodged.

Who needs to report?

From 1 July 2012 you need to report if all of the following apply:

- you are a business that is primarily in the building and construction industry

- you make payments to contractors for building and construction services

- you have an Australian business number (ABN).

You are considered to be a business that is primarily in the building and construction industry if any of the following apply:

- in the current financial year, 50% or more of your business activity relates to building and construction services in the current financial year, 50% or more of your business income is derived from providing building and construction services in the financial year immediately before the current financial year, 50% or more of your business income was derived from providing building and construction services.

Details you need to report

For each contractor, you need to report the following details each financial year:

ABN, [if known](#)
name
address
gross amount you paid for the financial year (this is the total paid including GST)
total GST included in the gross amount you paid.

The details you need to report will generally be contained in the invoices you receive from your contractors.

Payments you need to report

You will need to report payments you make to contractors for building and construction services. Building and construction services include any of the activities listed below if they are performed on, or in relation to, any part of a [building, structure, works, surface or sub-surface](#):

| | |
|--------------|--|
| Alteration | Improvement |
| Assembly | Installation |
| Construction | Maintenance |
| Demolition | Management of building and construction services |
| Design | Modification |
| Destruction | Organisation of building and construction services |
| Dismantling | Removal |
| Erection | Repair |
| Excavation | Site preparation |
| Finishing | |

For a list of occupations and work activities that qualify as building and construction services, see [Appendix 1](#). For examples of what we consider to be buildings, structures, works, surfaces or sub-surfaces, see [Appendix 2](#).

Contractors who pay other contractors for building and construction services may also be required to report if they are carrying on a business that is primarily in the building and construction industry.



A contractor can be an individual, partnership, company or trust.

Example 1: Business primarily in the building and construction industry

J and L Builders earns all of its income from building commercial properties for its clients. As 50% or more of J and L Builders' income is from providing building and construction services it is primarily in the building and construction industry. J and L Builders will be required to report payments it makes to contractors for providing building and construction services.

Example 2: All business activity in building and construction

ABC, a property developer, has purchased a block of land in the Melbourne city precinct and intends to build apartments. ABC has created a separate entity, Upmarket Apartments Pty Ltd, to manage the project and construction of the apartments. Upmarket Apartments will be required to report payments it makes to contractors for providing building and construction services because 50% or more of its business activity will relate to building and construction services.

Example 3: Not all income from building and construction

Scott's Cabinet Makers Pty Ltd is a business that makes and installs custom-made kitchen cabinets, which is a type of activity that is a building and construction service. It also makes and sells ornamental wooden carvings. The table below shows the income Scott's Cabinet Makers earned from its different activities.

| Financial year | Income from... | |
|-------------------------|----------------|----------|
| | cabinet making | carvings |
| Year ended 30 June 2013 | 45% | 55% |
| Year ended 30 June 2014 | 60% | 40% |
| Year ended 30 June 2015 | 40% | 60% |

As Scott's Cabinet Makers earns 50% or more of its income from building and construction services in the financial year ending 30 June 2014, it will need to report on payments made to contractors in the 2013-14 financial year. Although it will not earn 50% or more of its income from building and construction services in the 2014-15 financial year, it will still need to report payments made to contractors in that year because of its 2013-14 income.

Example 4: Retail business providing minor building and construction services

Harry's Hardware is a business that sells building equipment to builders and homeowners. For an additional fee Harry's Hardware can arrange for the installation of certain products, such as a skylight. The store will not be required to report payments it makes to contractors who do the installation as its business is not primarily in the building and construction industry, but rather in the retail industry. It does not meet either the activity or income tests of being primarily in the building and construction industry.

Example 5: Business with separate entity for building and construction services

Harry's Hardware sets up a separate business entity, Harry's Installation Services, to install the products it sells. Harry's Hardware will not have to report on payments made to contractors as it is not carrying on a business that is primarily in the building and construction industry. However, as all of the income for Harry's Installation Services is from the provision of building and construction services (installation of products), it will have to report payments it makes to contractors for such services.

Example 6: Mining infrastructure

Black Coal establishes a new mining facility that requires the construction of a range of infrastructure. Black Coal contracts Earl's Earthworks to carry out the work. Earl's Earthworks in turn sub-contracts the work. Black Coal will not be required to report payments it makes to Earl's Earthworks because all of its income is from coal mining. Earl's Earthworks, which is carrying on a business primarily in the building and construction industry, will need to report payments it makes to sub-contractors.

Example 7: Equipment hire with or without an operator

An equipment hire store provides plant and machinery for hire to the building and construction industry, for example, bobcats, scaffolding and tippers (commonly known as 'dry hire'). The store can also provide the equipment with an operator (commonly known as 'wet hire') for an additional fee. The operator is not an employee of the store but a contractor the store engages. The store will not be required to report payments it makes to the operator provided 50% or more of the equipment hire store's income or business activity relates to the 'dry hire' of the equipment, as this is not a building and construction service.

A builder who hires a bobcat **with a driver** will have to report the payment it makes to the equipment hire store for providing a building and construction service. Wet hire is a building and construction service.

Example 8: Contractor paying another contractor

Rob's Installation Services (principal contractor) contracts Simon (first tier sub-contractor) to install products. Simon is not coping with the amount of work Rob's Installation Services is providing him and sub-contracts some of the work to Bill (second tier sub-contractor). Rob's Installation Services will need to report on the payments it makes to Simon. If Simon is carrying on a business that is primarily in the building and construction industry he will be required to report the payments he makes to Bill.

Payments for both labour and materials

Where invoices you receive include both labour and materials, you report the whole amount of the payment unless the labour is incidental.

Example 9: Incidental supply of services

Kevin purchases a stock of new taps from Harry's Hardware to install in a commercial building. Harry installs one tap by way of demonstration so that Kevin knows how to install the rest. Harry's Hardware invoices Kevin for the taps and includes a small amount for the labour to demonstrate the installation. Kevin does not need to report the payment he makes to Harry's Hardware because the labour component of installing the tap is incidental to the supply of the materials.

Example 10: More than incidental supply of services

An electrical business provides labour and materials for various electrical applications. A builder pays the electrical business for the supply and installation of wiring in a commercial fit out that he is managing. As the provision of the installation service is a building and construction activity and more than incidental to the supply of materials, the builder will be required to report the total payment made to the electrical business. The builder is carrying on a business that is primarily in the building and construction industry.

Keeping records

It is important to check the way you keep your records. You should make sure you record all the necessary information so you can easily report the total payments you make to each contractor by the due date each year.

We have developed a worksheet that you can download and print to help you record details of payments you make to contractors for their building and construction services. You can use the details you record in the worksheet to help you complete your *Taxable payments annual report*.

The [worksheet](#) is for your records only - do not send it to us.

When to report

The *Taxable payments annual report* is due 21 July each year.

The first *Taxable payments annual report* is due 21 July **2013** for payments made in the 2012-13 financial year. In this first year, if you lodge your business activity statements quarterly, you may lodge by 28 July 2013.

Lodging your Taxable payments annual report

You can lodge your report online or on paper.

Online

If you use commercial software, check with your software provider that you will be able to produce the new annual report. More information about lodging your new annual report online will be available closer to the due date for lodgment of the report. You can find general information about how to lodge online by visiting [Online Services](#)

Paper

If you intend to lodge a paper form, you must complete and send the ATO *Taxable payments annual report* to us. You must use this ATO form and you can order it online or by phone. If you have more than nine contractors, you will need to order additional forms.

Payments you do not report

Payments for materials only

You are not required to report on payments where the invoices are for materials only, such as building supplies and materials.

Unpaid invoices as at 30 June each year

Do not report any unpaid invoices as at 30 June each year. For example, if you receive an invoice in June 2012, but you do not pay that invoice until some time in July 2012, you report that payment in the 2012-13 *Taxable payments annual report*.

Pay as you go withholding payments

You do not report payments that are required to be reported in a *Pay as you go (PAYG) withholding payment summary annual report* or a *Pay as you go (PAYG) withholding where ABN not quoted annual report* - for example, payments to:

- employees
- workers engaged under a voluntary agreement to withhold
- workers engaged under a labour hire or on-hire arrangement
- contractors who do not quote an ABN*.

*Where an ABN is not provided, the payer must withhold under the existing pay as you go withholding arrangements. For ease of reporting, if there are instances of no-ABN withholding, details may be reported in the new *Taxable payments annual report* instead of the *Pay as you go (PAYG) withholding where ABN not quoted annual report*.



If a contractor has not provided their ABN, see [No ABN withholding - questions and answers](#).

Payments for private and domestic projects

You will not need to report if you are a home owner making payments to contractors for building and construction services, for example if you are building or renovating your own home.

Example 11: Home owner paying for building and construction services

Kristyn, who has an ABN for the purposes of running a bookkeeping business, manages the construction of her new home and makes payments directly to the contractors. Kristyn will not be required to report payments she makes to contractors as she is undertaking the activity in a domestic capacity and not as a business.

Payments within consolidated groups

If you are in a consolidated group or multiple entry consolidated group for income tax purposes, you do not need to report payments you make to another member of that same consolidated or multiple entry consolidated group. This is because members of a consolidated group or multiple entry consolidated group are effectively taxed as a single entity.

Example 12: Payments within consolidated groups

Brick Co and Paint Co are both members of the same consolidated group for income tax purposes. Brick Co provides building services and makes a payment to Paint Co for painting its building project. As Paint Co and Brick Co are in the same consolidated group, Brick Co will not have to report on the payment made to Paint Co for the provision of painting services. It will, however, have to report on payments made to entities outside the consolidated group for the supply of building and construction services.

Information for contractors within the building and construction industry

If you are a contractor and you do not pay other contractors, then you do not need to do anything. From 1 July 2012, businesses that are primarily in the building and construction industry that pay you for building and construction services will be required to report these payments to us each year. The information reported will be used for data matching to detect those contractors who may not have included all their income or lodged tax returns.

Appendix 1: Examples of building and construction services

Below is a list of occupations and work activities that satisfy the definition of building and construction services:

- Architectural work (including drafting and design)
- Asphalt and bitumen work
- Assembly, installation or erection of pre-fabricated houses
- Block laying
- Bricklaying
- Building of room components (for example, kitchens, bathroom components, laundry components, cupboards, etc)
- Cabinet making (including joinery and offsite fabrication for installation at a building site)
- Cable laying
- Communications construction
- Concreting (including formwork, pouring and finishing)
- Construction and sealing roads
- Construction management
- Decorating
- Demolition
- Distribution line construction
- Drainage work
- Dredging
- Earthworks
- Electrical machinery, heavy, installation (on-site assembly)
- Electrical work
- Electrical construction
- Elevator and escalator installation and work
- Engineering
- Equipment rental with operator (if there is no operator, it is just rental of a good and not a building and construction activity)
- Erection of frames
- Erection of scaffolding
- Excavation and grading
- Fencing
- Finishing
- Flood control system construction
- Flooring (for example, tiling, laying carpet, laying linoleum, timber flooring, floating floors, resilient flooring, slate tiles, etc)
- Foundation work
- Gas plumbing
- Glass and glazing work
- Hanging or installing doors
- Installation of fittings
- Installation of hard-wired alarm systems (security, fire, smoke, etc)
- Installation of hot water systems
- Installation of pre-fabricated components (for example, kitchens, bathroom components, laundry components, cupboards, etc)
- Installation of pre-fabricated temperature controlled structures
- Installation of septic tanks
- Installation of solar devices (for example, hot water or electricity connections)
- Installation of tanks
- Installation of window frames
- Installation of windows
- Installation or work on devices for heating and cooling
- Insulation work (walls, roofs, windows, etc)
- Internet infrastructure construction
- Irrigation system construction
- Land clearing
- Landscaping construction (including paving and design)
- Levelling sites
- Painting (internal and external surfaces, including roofs)
- Pile driving
- Pipeline construction
- Plastering (or other wall and ceiling construction)
- Plumbing work
- Preparation of site

- Project management
- Rendering (or other internal or external surface finishes)
- Retaining wall construction
- River work construction
- Roofing and guttering
- Sewage or stormwater drainage system construction
- Stonework
- Surveying
- Swimming pool installation
- Swimming pool, below ground concrete or fibreglass, construction
- Tiling (walls etc)
- Timber work
- Wallpapering
- Waterproofing interior and exterior surfaces
- Weatherboarding

Appendix 2: Examples of buildings, structures, works, surfaces or sub-surfaces

Below is a list of what we consider to be buildings, structures, works, surfaces or sub-surfaces:

- Aerodrome runways
- Apartments
- Breakwaters
- Bridges
- Canals
- Commercial buildings
- Communications, internet and electrical infrastructure
- Dams
- Duplex houses
- Electricity power plants
- Elevated highway
- Flats
- Footpath, kerb and guttering
- Furnaces
- Garages
- Golf courses
- Harbour works
- High-rise flats
- Highways
- Housing buildings (including pre-fabricated housing)
- Industrial buildings
- Jetties
- Lakes
- Mine sites
- Office buildings
- Oil refineries
- Parking lots
- Pipelines
- Power plants
- Railways
- Roads
- Semi-detached houses
- Sewage storage and treatment plants
- Sheds
- Sports fields
- Streets
- Television or radio transmission towers
- Tunnels
- Water tanks
- Waterworks

<http://www.ato.gov.au/businesses/content.aspx?doc=/content/00313486.htm&alias=construction>