



Income Tax (Withholding Payments) Amendment Regulations 2002

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 25th day of February 2002

Present:

Her Excellency the Governor-General in Council

Pursuant to section NC 21 of the Income Tax Act 1994 and sections 224 and 225 of the Tax Administration Act 1994, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

- (1) These regulations are the Income Tax (Withholding Payments) Amendment Regulations 2002.
- (2) In these regulations, the Income Tax (Withholding Payments) Regulations 1979¹ are called “the principal regulations”.

¹ SR 1979/259

2 Commencement

These regulations come into force on 1 April 2002.

3 Interpretation

- (1) Regulation 2 of the principal regulations is amended by revoking the definition of the term **contract activity**, and substituting the following definition:

“**contract activity**, in relation to a non-resident contractor, means—

- “(a) the performing or rendering of any work or contract service in New Zealand:
“(b) the granting, providing, or supplying of the use of, or the right to use, in New Zealand, any personal property or services of a person, being a person other than the non-resident contractor”.

- (2) Regulation 2 of the principal regulations is amended by revoking the definition of the term **contract project**.

4 Payments declared to be withholding payments

- (1) Regulation 4(2) of the principal regulations is amended by adding the following paragraph:

“(d) any payment made in respect of, or in relation to, work done or services rendered by a non-resident contractor if the non-resident contractor is eligible for relief from tax under a double tax agreement and is present in New Zealand for less than 62 days in any period of 12 months.”

- (2) Subclause (1) applies to payments made on or after 1 April 2002.

5 New regulation 12 substituted

The principal regulations are amended by revoking regulation 12, and substituting the following regulation:

“12 Tax deductions from payments made by contractors to employees or subcontractors

If a tax deduction has been made, or will be required to be made, from a withholding payment made under a contract to the contractor undertaking to do work or render services in relation to that contract, and the contractor is liable to make any payment to any employee or subcontractor of the contractor for work done or services rendered in relation to the

contract, the contractor must comply with the provisions of the PAYE rules and of these regulations in respect of any tax deduction required to be made by the contractor from any payment made by the contractor to any employee or subcontractor of the contractor for work done or services rendered in relation to the contract.”

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 April 2002, amend the Income Tax (Withholding Payments) Regulations 1979.

The amendments—

- remove the redundant concept of contract project from the principal regulations; and
- declare that payments made in connection with work done or services performed by a non-resident contractor are not withholding payments for the purposes of the PAYE rules if the non-resident contractor is eligible for tax relief under a double tax agreement and is present in New Zealand for less than 62 days in any period of 12 months; and
- remove the exemption from the PAYE rules for shearing contractors. This means that all contractors that make payments to employees or subcontractors will be governed by the same rules.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 28 February 2002.

These regulations are administered in the Inland Revenue Department.
