

1957/280

**THE INCOME TAX (WITHHOLDING PAYMENTS)
REGULATIONS 1957**

COBHAM, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 23rd day of December 1957

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Land and Income Tax Act 1954, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Short Title and commencement—(1) These regulations may be cited as the Income Tax (Withholding Payments) Regulations 1957.

(2) These regulations shall come into force on the 1st day of April 1958.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Income Tax Assessment Act 1957:

“Withholding payment” means a payment which is declared by these regulations to be a withholding payment for the purposes of Part II of the Act.

(2) Unless the context otherwise requires, words or expressions used in these regulations have the same meanings as in the Land and Income Tax Act 1954.

(3) In Part D of the Schedule to these regulations, unless the context otherwise requires,—

“Auctioneer or dealer”, in relation to any class of goods, means a person carrying on a business which comprises or includes the sale by auction or otherwise of goods of that class as auctioneer or agent on behalf of the seller, or the purchase of goods of that class as agent for a buyer or buyers:

“Licensed dealer”, in relation to any class of goods, means—

(a) Any broker, dealer, or trader in goods of that class who is licensed as such under any Act or regulation:

(b) Any person who is carrying on a business which comprises or includes the purchase of goods of that class, and who holds a certificate from the Commissioner that he is a licensed dealer in goods of that class for the purposes of these regulations:

(c) Any other person who holds a certificate from the Commissioner that he is a licensed dealer in goods of that class for the purposes of these regulations:

“Payment made”, in relation to any sale, means the net amount paid after deducting from the purchase price (including any subsidy) all commission, insurance, freight, classing charges, and other expenses incurred in connection with the sale and properly charged against the seller:

“Seller” includes an agent selling on behalf of a seller.

(4) For the purposes of the definition of the term “licensed dealer” in subclause (3) of this regulation—

(a) A certificate under paragraph (b) of the definition shall be granted by the Commissioner as of right and without payment of any fee upon written application by any person who is carrying on a business referred to in paragraph (b); and any such certificate may be revoked by the Commissioner when the holder thereof is no longer carrying on any such business:

(b) A certificate under paragraph (c) of the definition may be granted by the Commissioner in his discretion without payment of any fee upon written application; and any such certificate may be revoked by the Commissioner at any time.

3. Payments declared to be withholding payments—(1) Subject to the provisions of these regulations, all payments of the classes specified in the Schedule to these regulations are hereby declared to be withholding payments for the purposes of Part II of the Act.

(2) Notwithstanding anything in subclause (1) of this regulation, the following payments shall not be withholding payments for the purposes of Part II of the Act, namely:

(a) Any payment or portion of a payment made to any person on or after the 1st day of April 1958 that is income derived by that person before that day:

(b) Any payment that is salary or wages or an extra emolument:

(c) Any payment made in respect of or in relation to work done or services rendered by any public authority, local authority, Maori authority, or company:

(d) Any payment exempted by an exemption certificate under regulation 4 hereof which bears the signature of the person to whom it is addressed and is produced to the person making the payment at the time when he makes the payment.

4. Exemption certificates—(1) The Commissioner may in his discretion issue to any person an exemption certificate addressed to that person specifying any payments to be made to that person during the period specified in the certificate in respect of which no tax deductions shall be made, being payments which but for the certificate would be withholding payments.

(2) The Commissioner may at any time cancel any exemption certificate.

(3) Not later than seven days after the Commissioner has given notice of the cancellation of an exemption certificate to the person to whom it is addressed, that person shall return the certificate to the Commissioner at the office of the Inland Revenue Department from which the certificate was issued.

(4) No person shall alter any exemption certificate issued by the Commissioner under this regulation, or falsely pretend to be the person to whom any such certificate is addressed, or have in his possession, without lawful justification or excuse, a colourable imitation of any such certificate, or cause or attempt to cause any person to refrain from making a tax deduction by the production of any such certificate which is not for the time being in force.

5. Amounts of tax deductions—(1) Subject to the provisions of these regulations, every tax deduction from a withholding payment shall be of the amount calculated according to the amount of the payment at the appropriate rate specified in the Schedule to these regulations.

(2) Subject to the provisions of these regulations, every tax deduction from a withholding payment shall be calculated according to the gross amount of the payment, whether or not the payment consists wholly or partly of income, and whether the amount of the tax deduction relates exclusively to the income tax payable by the person receiving the payment or relates partly to that income tax and partly to income tax payable by any employee or subcontractor of that person.

(3) Where the Commissioner makes a determination under regulation 6 hereof that part of any withholding payment shall be regarded as expenditure incurred in the production of the payment, the tax deduction shall be calculated according to so much of the payment as remains after the subtraction therefrom of that part.

6. Expenditure incurred in the production of a withholding payment—For the purposes of these regulations the Commissioner may from time to time determine, on such basis as he thinks fit, what amount or proportion of any specified withholding payment, or withholding payments of any specified class, shall be regarded as expenditure incurred in the production of the payment or payments, and for the purposes of these regulations every such determination shall be final and conclusive, subject to any further determination by the Commissioner. Any determination made by the Commissioner under this regulation may be from time to time varied or at any time revoked by him.

7. Tax deductions from protected payments—Every tax deduction required by the Act to be made from any withholding payment shall be made notwithstanding that the payment may be protected against assignment or charge.

8. Where tax to be determined by amount of tax deductions—Where in any year a person has not derived withholding payments of the classes specified in Part B of the Schedule to these regulations exceeding in the aggregate £12, and that person would have been a pay period taxpayer if all the withholding payments of the classes specified in Parts B

and C of the Schedule to these regulations derived by him in that year had been income from employment, all such payments so derived by him shall for the purposes of sections 22 and 23 of the Act (but not for the purpose of determining the amount of any tax deductions required to be made therefrom) be deemed to be income from employment.

9. Tax deductions from payments made by contractors to employees or subcontractors—Where 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 that contract, the following provisions shall apply:

- (a) Subject to the provisions of paragraph (b) of this regulation, the contractor shall comply with the provisions of Part II of the Act (including section 20 thereof) and of these regulations in respect of any tax deduction required to be made by the contractor from any payment made by him to any employee or subcontractor of the contractor for work done or services rendered in relation to that contract:
- (b) Where the withholding payment relates to a shearing contract, the contractor shall not be liable to comply with paragraph (a) of subsection (1) of section 20 of the Act in respect of any tax deduction made by him from any payment to any employee or subcontractor for work done or services rendered in relation to that contract, and may retain the amount of every such tax deduction. In all other respects he shall comply with the provisions of Part II of the Act in respect of all such tax deductions, except that it shall be sufficient compliance with paragraph (e) of subsection (1) of section 20 of the Act for him to deliver to the Commissioner in accordance with that paragraph all documents specified in that behalf in that paragraph other than the reconciliation statement:
- (c) Where the Commissioner receives from a shearing contractor any tax deduction certificates in respect of tax deductions made in an income year from withholding payments made to the contractor in respect of any shearing contracts, or receives the amount of any tax deduction so made and not included in any tax deduction certificate, no part of the amounts of the tax deductions shown in the certificates or received as aforesaid shall be applied in accordance with section 28 of the Act in payment of any income tax or social security charge payable by the contractor, or in making any refund to the contractor, until the Commissioner is satisfied that the contractor has complied with paragraphs (a) and (b) of this regulation in respect of all tax deductions required to be made by the contractor from payments made by him to employees or subcontractors in relation to any of the shearing contracts; and, where the Commissioner is so satisfied, the amount to be so applied as aforesaid under section 28 of the Act shall be the residue of the aggregate of the amounts of the tax deductions shown in the certificates, or received as aforesaid, after

subtracting from that aggregate the total of the amounts of the tax deductions which the contractor is required to make from payments made by him to employees or subcontractors in relation to any of those shearing contracts.

SCHEDULE

TAX DEDUCTIONS FROM WITHHOLDING PAYMENTS

PART A

Class of Payment	Rate of Tax Deduction
1. Commissions or other remuneration to insurance agents or sub-agents, or to salesmen	2s. per £1.
2. Company directors' fees	5s. per £1.
3. Fees or other remuneration for or in relation to or arising from participation in professional sporting events (including motor racing and motor cycle racing but not horse racing or trotting) but excluding fees or other remuneration payable to itinerant performers visiting New Zealand for the purpose exclusively or principally of participating in the events	2s. per £1.
4. Jockeys' or drivers' riding or driving fees—	
(a) Apprentices' shares	1s. 6d. per £1.
(b) Others	2s. per £1.
5. Payments for—	
(a) Shearing	2s. 6d. per £1.
(b) Droving	1s. 6d. per £1.
6. Payments for agricultural work, maintenance work, development work, or other work on or in connection with land used or intended to be used for farming or agriculture, being work of the nature of any of the following, namely:	
(a) Animal pest or vermin destruction:	
(b) Construction, repair, clearing, or maintenance of:	
(i) Access roads or tracks to or on the land:	
(ii) Dams, stopbanks, irrigation or stream diversion channels, or other works for the purpose of conserving or conveying water for use on the land or for preventing or combating soil erosion:	
(iii) Drains:	
(iv) Fences:	
(v) Stock yards:	
(vi) Sheep dips:	
(vii) Aeroplane landing strips:	
(c) Draining of swamp or low-lying land:	
(d) Firewood cutting or post or rail splitting, including the incidental cutting down of trees:	

SCHEDULE—*continued*

	Rate of Tax Deduction
(e) Grass or grass seed cutting:	
(f) Hedge cutting:	
(g) Planting trees:	
(h) Planting or cutting flax:	
(i) Preparation of land for farming or agriculture, including cultivating, fertilising, topdressing, sowing, planting, and grassing:	
(j) Prevention or repair of flood or erosion damage:	
(k) Scrub destruction, including cutting, grubbing, burning, and clearing:	
(l) Sinking of bores or wells for water:	
(m) Stumping:	
(n) Tree clearing or bush work, including bush and timber felling, road and tramway work, removal of timber, undergrowth cutting, burning, clearing, and bush work of any kind:	
(o) Threshing, chaffcutting, hay making, hay baling, or harvesting or gathering crops:	
(p) Weed or plant destruction	2s. per £1.
7. Payments for—	
(a) Planting, sowing, or gathering potatoes or vegetables	2s. per £1.
(b) Forestry or bush work, including bush felling, road and tramway work, removal of timber, undergrowth cutting, burning, clearing, and forestry and bush work of any kind	2s. per £1.
(c) Planting or cutting flax	2s. per £1.
(d) Mail delivery or collection	2s. per £1.
(e) Transport of school children	2s. per £1.
(f) Milk delivery	2s. per £1.
(g) Refuse removal	2s. per £1.
(h) Caretaking or acting as watchman	1s. 6d. per £1.
(i) Street or road cleaning	1s. 6d. per £1.
8. Payments for work done or services rendered, other than in, or in connection with, a dwellinghouse or other premises used exclusively by the occupier or occupiers thereof for his or their own residential purposes, being work or services of the nature of the following namely:	
(a) Cleaning office, business, institutional, or other premises or any part of any such premises including windows:	1s. 6d. per £1.
(b) Cleaning or laundering plant, vehicles, furniture, furnishings, fittings, or equipment:	1s. 6d. per £1.
(c) Gardening, including grass cutting and hedge cutting:	2s. per £1.
(d) Vermin destruction:	2s. per £1.
(e) Weed destruction	2s. per £1.

SCHEDULE—*continued*

PART B

Class of Payment	Rate of Tax + Deduction
1. Fees or other remuneration for or in relation to contributions (including photographs, illustrations, and cartoons) by free-lance journalists, writers, artists, or other regular or casual contributors—	
(a) To newspapers, magazines, journals, pamphlets, circulars, hand-bills, or other like publications:	1s. 6d. per £1.
(b) For radio, television, theatrical, or stage productions or presentations, or other like productions or presentations	1s. 6d. per £1.
2. Fees or other remuneration for or in relation to personal attendances exhibiting or demonstrating appliances, equipment, goods, or merchandise	1s. 6d. per £1
3. Fees or other remuneration for or in relation to modelling for the purposes of display or advertising or for art purposes, including attendances for photographing, or for or in relation to the supply of personal photographs, testimonials, recommendations, or other statements for use in advertising, or promoting the sale of appliances, equipment, goods, or merchandise, or for any other purpose	1s. 6d. per £1.
4. Fees or other remuneration for or in relation to regular or casual lectures, speeches, or talks, or actors', entertainers', musicians', singers', dancers', other artistes', or compères' performances by regular or casual performers whether alone or with another or others or in choruses, bands, orchestras, choirs, ballets, or other groups, and whether for the purpose of education, culture, religion, entertainment, or otherwise, including the like lectures, speeches, talks, and performances and other performances and appearances on radio or television, but excluding fees or other remuneration payable to itinerant performers visiting New Zealand for the purpose exclusively or principally of performing in New Zealand	1s. 6d. per £1.
5. Honoraria (including payments to Mayors of cities and boroughs and to Chairmen and members of Councils, Boards, committees, and other like bodies, and to officials of societies, clubs, and other like organisations)	1s. 6d. per £1.

PART C

Class of Payment	
1. Jurors' fees	1s. 6d. per £1.
2. Witnesses' fees	1s. 6d. per £1.

SCHEDULE—continued

PART D

Class of Payment	Rate of Tax Deduction
Payments made to the seller of—	
(a) Opossum skins:	
(b) Whitebait—	
in respect of the purchase thereof from the seller, being payments made by a purchaser, or by an auctioneer or dealer (whether acting on behalf of the seller or on behalf of the purchaser), but not including any payment—	
(i) Made to a licensed dealer; or	
(ii) Made on a sale of the goods by any person after the sale or disposal thereof by a licensed dealer; or	
(iii) Made to an auctioneer or dealer acting as agent for the seller; or	
(iv) Made in respect of goods purchased by retail in a shop	1s. 6d. per £1.

T. J. SHERRARD,
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 set out the classes of payments (not being salary or wages or other income from employment or payments made to public authorities, local authorities, Maori authorities, or companies) which are declared to be "withholding payments" from which tax deductions are required to be made under Part II of the Income Tax Assessment Act 1957.

The regulations also prescribe the rate of the tax deductions to be made from each class of payments and make incidental provisions relating to withholding payments.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 23 December 1957.

These regulations are administered in the Inland Revenue Department.