

Reprint
as at 1 July 2008

**Income Tax (Withholding
Payments) Regulations 1979**

(SR 1979/259)

Income Tax (Withholding Payments) Regulations 1979: revoked, on 1 April 2008, by section ZA 1(1) of the Income Tax Act 2007 (2007 No 97).

PURSUANT to the Income Tax Act 1976, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

These regulations are administered in the Inland Revenue Department.

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1 Title, commencement, and application

- (1) These regulations may be cited as the Income Tax (Withholding Payments) Regulations 1979.
- (2) These regulations shall come into force on the 1st day of April 1980.
- (3) These regulations shall apply with respect to every withholding payment made on or after the date of the commencement of these regulations, whether made in respect of any date before or after or any period commencing before or after the date of the commencement of these regulations.

2 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

The Act means the Income Tax Act 2004

The Act: this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Associated persons has the same meaning as in section OB 1 of the Act

Associated persons: this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by omitting the words “paragraph (a) of the definition of that term in”.

Auctioneer or dealer, in relation to a 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

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

Contract activity: this definition was substituted, as from 1 April 2002, by regulation 3(1) Income Tax (Withholding Payments) Amendment Regulations 2002 (SR 2002/35).

Contract payment, in relation to a non-resident contractor, and to a contract activity in relation to the non-resident contractor, means any payment, not being—

- (a) A payment that is a royalty within the meaning of section OB 1 of the Act; or
- (b) A cost reimbursing payment; or
- (c) A payment to which clause 8 or clause 9 of Part A of the Schedule to these regulations applies,—

made for the contract activity to the non-resident contractor, or to the non-resident contractor's agent or other person acting on the non-resident contractor's behalf

Contract project*[Revoked]*

Contract project: this definition was revoked, as from 1 April 2002, by regulation 3(2) Income Tax (Withholding Payments) Amendment Regulations 2002 (SR 2002/35).

[Revoked]

Contract service, in relation to a non-resident contractor, means a service of any kind and, without limiting that meaning, includes any advisory, analytical, architectural, consultancy, designing, diving, drilling, engineering, inspection, management, procurement, professional, scientific, surveying, technical, or weather-forecasting service, and any service in respect of in relation to a feasibility, financial, or marketing study or evaluation

Cost reimbursing payment, in relation to a non-resident contractor, means any payment, made to the non-resident con-

tractor by or on behalf of any other person (that non-resident contractor and that other person not being associated persons), to the extent (if any) that the payment constitutes reimbursement of expenditure incurred, in relation to the payment, by that non-resident contractor

Double tax agreement has the same meaning as in section OB 1 of the Act

Game means deer, pigs, or goats killed, taken, or captured in a wild state; and includes meat, antlers, tails, sinews, skins or pelts, or any other part of any such animals

Income tax liability has the same meaning as in section OB 1 of the Act

Licensed dealer, in relation to a 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 the person 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 the person is a licensed dealer in goods of that class for the purposes of these regulations:

Non-resident contractor means any person who is not deemed to be resident in New Zealand within the meaning of Subpart OE of the Act and who, under a contract (not being a contract of service or apprenticeship) or an agreement or arrangement undertakes (otherwise than as an employee) any contract activity

Non-resident contractor: this definition was amended, as from 1 April 2005, by section 303(1) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) by omitting the words “(within the meaning of section OB 1 of the Act)” with application as from the income year corresponding to the 2005-06 tax year.

Non-resident entertainer means any person who is not deemed to be resident in New Zealand within the meaning of Subpart OE of the Act and who, during the course of a visit to New Zealand, performs or participates in any specified activity, and includes any company or firm or other person in

any case where the first-mentioned person is an employee or an officer of the company or a principal or employee of the firm or an employee of the other person, being a company, firm, or other person which provides the services of the first-mentioned person, during a visit to New Zealand of the first-mentioned person, in performing or participating in any specified activity

PAYE rules has the same meaning as in section OB 1 of the Act

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 property charged against the seller

Resident entertainer means a person who is deemed to be resident in New Zealand within the meaning of Subpart OE of the Act and who performs or participates in any specified activity

Seller includes an agent selling on behalf of a seller

Specified activity, in relation to a non-resident entertainer or resident entertainer, means any activity or performance, including performances or appearances on or for radio, television, or a film—

- (a) In connection with any sporting event or competition of any nature, including motor racing, motorcar rallies, motor cycle racing, motor boat racing, and horse racing and trotting:
- (b) In connection with lectures, speeches, or talks for any purpose, whether on a regular or casual basis:
- (c) In connection with any performance by actors, entertainers, musicians, singers, dancers, comperes or other artistes, whether regular or casual performers, and whether alone or with any other person or persons in choirs, choruses, bands, orchestras, ballets, or other entertainment groups, and whether for the purpose of education or culture or religion or entertainment or any other purpose;—

but, in relation to a non-resident entertainer, does not include any such activity or performance—

- (d) Pursuant to a cultural programme of, or partially sponsored by, an overseas government or the Government of New Zealand; or
- (e) Pursuant to a programme of a foundation, trust, or other organisation, being a foundation, trust, or other organisation outside New Zealand which exists for the promotion, whether in whole or in part, of any cultural activity and which is not carried on for the private pecuniary profit of any proprietor, member, or shareholder; or
- (f) In relation to any game or sport where the participants are the official representatives of an association, league, union, or other body which administers the game or sport in an overseas country:

specified agricultural, horticultural, or viticultural company means a company that carries on a business that comprises or includes performing any work or rendering any service specified in clause 4A of Part A of the Schedule

specified agricultural, horticultural, or viticultural company: this definition was inserted, as from 1 April 2006, by regulation 3(1) Income Tax (Withholding Payments) Amendment Regulations 2005 (SR 2005/253) with application to payments made on or after 1 April 2006.

Specified payment, in relation to any person, being a non-resident entertainer or resident entertainer, and to any specified activity, means any payment made to that person, or to that person's agent or any other person acting on the person's behalf, being a payment paid in respect of or in relation to any services rendered or provided by the person in connection with that specified activity, whether that payment is paid as fees, remuneration, prize, or appearance money, or otherwise

Withholding payment means a payment that is declared by these regulations to be a withholding payment for the purposes of the PAYE rules.

- (2) For the purposes of the definition of **licensed dealer** in sub-clause (1) 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 a person who is carrying on a business referred to in paragraph (b); and any such certificate may be revoked by

the Commissioner when its holder is no longer carrying on any such business:

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

In the original regulation 2: Associated persons: this definition was inserted, as from 1 January 1982 by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 3 (SR 1981/304).

In the original regulation 2: Casual agricultural worker: this definition was inserted, as from 1 October 1980, by regulation 2 Income Tax (Withholding Payments) Regulations 1979 Amendment No 1 (SR 1980/191) and revoked, as from 1 April 1995, by section 53(2)(a) Income Tax Act 1994 Amendment Act (No 2) (1995 No 21).

In the original regulation 2: Contract activity: this definition was inserted, as from 1 January 1982, by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 3 (SR 1981/304) and amended by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 8 (SR 1990/30) by inserting paragraph (ab).

In the original regulation 2: Contract payment: this definition was inserted as from 1 January 1982 by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 3 (SR 1981/304).

In the original regulation 2: Contract project: this definition was inserted, as from 1 January 1982, by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 3 (SR 1981/304).

In the original regulation 2: Contract service: this definition was inserted, as from 1 January 1982, by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 3 (SR 1981/304).

In the original regulation 2: Cost reimbursing payment: this definition was inserted, as from 1 January 1982, by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 3 (SR 1981/304).

In the original regulation 2: Non-resident contractor: this definition was inserted, as from 1 January 1982, by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 3 (SR 1981/304).

In the original regulation 2: Opossum: this definition was revoked, as from 9 January 1992, by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 9 (SR 1991/299).

In the original regulation 2: Specified activity: paragraph (e) of this definition was amended, as from 1 January 1982, by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 4 (SR 1982/266) by inserting the words "outside New Zealand".

Regulation 2 was substituted, as from 1 April 1997, by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378).

3

Regulation 3 was amended, as from 1 October 1980, by regulation 3 Income Tax (Withholding Payments) Regulations 1979, Amendment No 1 (SR 1980/191).

Regulation 3 was revoked, as from 1 April 1995, by section 53(2)(b) Income Tax Act 1994 Amendment Act (No 2) (1995 No 21).

4 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 the PAYE rules.
- (2) Notwithstanding anything in subclause (1) of this regulation, the following payments shall not be withholding payments for the purposes of the PAYE rules, namely:
 - (a) Any payment that is salary or wages or an extra pay
 - (b) 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, not being a company which is a non-resident entertainer or a non-resident contractor or a specified agricultural, horticultural, or viticultural company:
 - (c) Any payment exempted by an exemption certificate under regulation 5 of these regulations 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.
 - (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 total relief from tax under a double tax agreement and is present in New Zealand for 92 days or less in any period of 12 months:
 - (e) any contract payment made in respect of, or in relation to, the contract activities of a non-resident contractor if the total amount of contract payments made for the contract activities to the non-resident contractor, the non-resident contractor's agent, and any other person acting on the non-resident contractor's behalf is \$15,000 or less in any period of 12 months.

Subclauses (1) and (2) were amended, as from 1 April 1997, by regulation 3 Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378) by substituting the words “the PAYE rules” for the words “Part 11 of the Acts”.

Subclause (2)(a) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the word “pay” for the word “emolument”.

Subclause (2)(b) was amended by regulation 3 Income Tax (Withholding Payments) Regulations 1979, Amendment No 3 (SR 1981/304) by inserting the words “or a non-resident contractor”.

Subclause (2)(b) was amended, as from 1 April 2006, by regulation 4(1) Income Tax (Withholding Payments) Amendment Regulations 2005 (SR 2005/253) by adding the words “or a specified agricultural, horticultural, or viticultural company” with application to payments made on or after 1 April 2006.

Subclause (2)(d) was inserted, as from 1 April 2002, by regulation 4(1) Income Tax (Withholding Payments) Amendment Regulations 2002 (SR 2002/35).

Subclause (2)(d) was substituted by regulation 3(1) Income Tax (Withholding Payments) Amendment Regulations (No 3) 2003 (SR 2003/279) with application to every payment made as from 1 December 2003.

Subclause (2)(e) was inserted by regulation 3(1) Income Tax (Withholding Payments) Amendment Regulations (No 3) 2003 (SR 2003/279) with application to every payment made as from 1 December 2003.

5 Exemption certificates

- (1) Subject to subclause (2), the Commissioner may in the Commissioner’s 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) Subclause (2) of this regulation shall not apply with respect to any payment to a non-resident entertainer.
- (3) On application made in writing to the Commissioner by a non-resident contractor, the Commissioner may issue, subject to such terms and conditions as the Commissioner considers appropriate and as are specified by the Commissioner, an exemption certificate addressed to the non-resident contractor specifying that any contract payment to be made to the non-resident contractor (or to the non-resident contractor’s agent or any other person acting on the non-resident contractor’s behalf), for any contract activity specified in the certifi-

cate, is a contract payment in respect of which no tax deductions shall be made, in any case where—

- (a) The Commissioner is satisfied that any amount derived, or which may be derived, by the non-resident contractor from that contract activity is not or will not be income, whether by reason of any double tax agreement or for any other reason; or
 - (b) The non-resident contractor gives to the Commissioner a bond or other form of security, satisfactory to the Commissioner, securing the payment on terms acceptable to the Commissioner of any income tax payable or which may become payable by the non-resident contractor on any amount derived or which may be derived by the non-resident contractor from that contract activity; or
 - (c) The Commissioner is satisfied that—
 - (i) The non-resident contractor has, in the period of 24 months immediately preceding the date on which the application is made, paid every amount of income tax payable by the non-resident contractor, in that period, under the Act and has in all other respects complied with the non-resident contractor's obligations arising in that period under the Act and the Tax Administration Act 1994; and
 - (ii) The non-resident contractor will, on and after that date, pay every amount of income tax payable or which may become payable by the non-resident contractor under the Act and will, in all other respects, comply with the non-resident contractor's obligations arising under the Act and the Tax Administration Act 1994.
- (4) The Commissioner may at any time cancel an exemption certificate.
- (5) Not later than 7 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.

- (6) 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 their 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.

Subclause (1A) was inserted, as from 1 January 1982, by regulation 4 Income Tax (Withholding Payments) Regulations, Amendment No 3 (SR 1981/304).

Regulation 5 was substituted, as from 1 April 1997, by regulation 4 Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378).

Subclause (3)(a) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by omitting the word “gross”..

6 Amounts of tax deductions

- (1) Subject to the provisions of these regulations, every tax deduction from a withholding payment shall be the amount calculated according to the amount of the payment at the appropriate rate specified in the Schedule to these regulations or, as the case may be, the amount or at the rate specified in a special tax rate certificate issued pursuant to regulation 6A of 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 liability of the person receiving the payment or relates partly to that income tax liability and partly to income tax liability of an employee or subcontractor of the person.
- Provided that where the gross amount of the payment includes any amount of goods and services tax and the payer holds a tax invoice issued by the payee pursuant to section 24 of the Goods and Services Tax Act 1985, that amount of goods and services tax shall not be included as part of the gross amount of that payment.
- (3) Where the Commissioner makes a determination under regulation 7 of these regulations that part of any withholding pay-

ment 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.

Subclause (1) was amended, as from 10 October 1980, by regulation 2(2) Income Tax (Withholding Payments) Regulations 1979, Amendment No 2 (SR 1980/203) by inserting the words “or, as the case may . . . 6A of these regulations.”.

Subclause (2) Proviso was inserted by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 6 (SR 1988/6).

Subclause (2) was substituted, as from 1 April 1997, by regulation 5 Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378).

6AA Amounts of tax deductions in relation to television or, film productions or presentations

- (1) The appropriate rate for payments for work done or services rendered within the class specified in clause 1A of Part B of the Schedule is the rate specified in that clause, even if the payment also falls within a class specified in any other clause of the Schedule.
- (2) This regulation does not apply if a special tax rate certificate has been issued under regulation 6A.

Regulation 6AA was inserted, as from 8 September 2003, by regulation 3 Income Tax (Withholding Payments) Amendment Regulations 2003 (SR 2003/186).

Regulation 6AA was inserted, as from 8 September 2003, by regulation 3 Income Tax (Withholding Payments) Amendment Regulations (No 2) 2003 (SR 2003/215)

6A Special tax rate certificates

- (1) The Commissioner may on the application of any person, not being a non-resident entertainer, issue to that person a special tax rate certificate specifying that the tax deductions to be made from any withholding payment made to that person shall be of such amount or at such rate as is specified in that certificate or shall be made from a specified proportionate part of each payment as if that part were the whole of the payment.
- (2) The Commissioner may at any time cancel any special tax rate certificate.
- (3) Not later than 7 days after the Commissioner has given notice of the cancellation of a special tax rate 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 special tax rate 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 their 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.

This regulation was inserted by regulation 2(1) Income Tax (Withholding Payments) Regulations 1979, Amendment No 2 (SR 1980/203).

Subclause (1) was amended, as from 1 April 1997, by regulation 6(a) Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378) by omitting the words “, in his discretion,”.

Subclause (4) was amended, as from 1 April 1997, by regulation 6(b) Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378) by substituting the word “their” for the word “his”.

7 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 the Commissioner 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 the Commissioner.

This regulation was amended, as from 1 April 1997, by regulation 7 Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378) by substituting the words “the Commissioner” for the words “he and him”.

8 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.

9

Regulation 9 was substituted by regulation 3 Income Tax (Withholding Payments) Regulations 1979, Amendment No 2 (SR 1980/203).

Regulation 9 was revoked, as from 1 April 1997, by regulation 8 Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378).

10 Income tax liability of non-resident entertainer to be determined exclusively and finally by total amount of tax deductions

Where the income derived from New Zealand by a non-resident entertainer consists solely of specified payments from which tax deductions have been made in accordance with these regulations, the income tax liability of the non-resident entertainer is deemed to equal the total amount of the tax deductions made under these regulations.

Provided that if in any case the non-resident entertainer furnishes a return of income under the Tax Administration Act 1994 in respect of that income, the income tax liability of the non-resident entertainer shall be determined in accordance with the Act.

Regulation 10 was substituted, as from 1 April 1997, by regulation 9 Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378).

11 Non-resident entertainer liable to pay withholding tax deductions to Commissioner where tax is not deducted at source

In any case where a non-resident entertainer is in receipt of any specified payment which is subject to a tax deduction in accordance with these regulations and no tax deduction was made at the time of payment, the non-resident entertainer shall pay to the Commissioner an amount equal to the tax deduction that should have been made, not later than the 20th day of the month following the month in which the deduction should have been made, or the date of departure from New Zealand, whichever is the earlier, and any amount so paid shall be deemed to be a tax deduction from that specified payment.

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.

Regulation 12 was substituted, as from 1 April 1997, by regulation 10 Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378).

Regulation 12 was substituted, as from 1 April 2002, by regulation 5 Income Tax (Withholding Payments) Amendment Regulations 2002 (SR 2002/35).

12A Agricultural, horticultural, or viticultural employers must provide certain information

- (1) If an employer is required to deliver to the Commissioner an employer monthly schedule for a particular period and the employer makes, during that period, a relevant payment in relation to which a tax deduction is not required to be made by virtue of a certificate issued under regulation 5 or regulation 6A, the employer must include in the employer monthly schedule the information set out in subclause (3) in relation to the relevant payment.
- (2) If an employer is not required to deliver to the Commissioner an employer monthly schedule for a particular month and the employer makes a relevant payment during that month, the employer must provide to the Commissioner the information set out in subclause (3) in relation to the relevant payment not later than the 20th of the month following the month in which the employer made the relevant payment.
- (3) For the purposes of subclauses (1) and (2), the information that must be provided is—
 - (a) the name and tax file number of the employer; and

- (b) the name of the person that received the payment; and
 - (c) if supplied to the employer, the tax file number of the person that received the payment; and
 - (d) the gross amount of the payment.
 - (e)
 - (f)
- (4) For the purposes of this regulation, **relevant payment** means a payment for work done or services rendered within the class specified in clause 4A of Part A of the Schedule.

Regulation 12A was inserted, as from 1 April 2006, by regulation 5(1) Income Tax (Withholding Payments) Amendment Regulations 2005 (SR 2005/253) with application to payments made on or after 1 April 2006.

Subclause (3)(d) was substituted, as from 1 April 2006, by regulation 3(1) Income Tax (Withholding Payments) Amendment Regulations 2006 (SR 2006/19) with application to payments made on or after 1 April 2006.

Subclause (3)(e) and (f) was revoked, as from 1 April 2006, by regulation 3(1) Income Tax (Withholding Payments) Amendment Regulations 2006 (SR 2006/19) with application to payments made on or after 1 April 2006.

13 Revocation

The Income Tax (Withholding Payments) Regulations 1975 and the Income Tax (Withholding Payments) Regulations 1975, Amendment No 1, are hereby revoked

**Schedule
Tax deductions from withholding
payments**

A

	Class of Payment	Rate of Tax De- duction
1.	Commissions or other remuneration to insurance agents or sub-agents, or to salesmen.....	20c per \$1.
2.	Company directors' fees.....	33c per \$1.

A—continued

	Class of Payment	Rate of Tax De- duction
3.	Payments for-	
	(a) Shearing:	
	(b) Droving.....	15c per \$1.
4.	Payments for agricultural work, maintenance work, development work of any of the kinds referred to in section DO 1 or DO 2 of the Act, or other work on or in connection with land used or intended to be used for farming or agriculture, being other work of nature of any of the following, namely:	
	(a) Firewood cutting or post or rail splitting, including the incidental cutting down of trees:	
	(b) Grass or grass seed cutting:	
	(c) Hedge cutting:	
	(d) Planting trees:	
	(e) Planting or cutting flax:	
	(f) Threshing, chaffcutting, hay making, hay baling, or harvesting or gathering crops....	15c per \$1

A—continued

	Class of Payment	Rate of Tax De- duction
4A	<p>Payments for agricultural, horticultural, or viticultural work done, or services rendered, on or in connection with land used or intended to be used for agriculture, horticulture, or viticulture (including the supply of labour), being work or services of the nature of any of the following:</p> <p>(a) the pruning of fruit trees or vines:</p> <p>(b) the thinning of fruit trees or vines:</p> <p>(c) the picking of fruit or grapes:</p> <p>(d) the packing of fruit or grapes</p>	15c per \$1
5.	<p>Payments for-</p> <p>(a) Planting, sowing, or gathering potatoes or vegetables:</p> <p>(b) Forestry or bush work of any kind, including bush felling, road and tramway work, removal of timber, undergrowth cutting, burning, and clearing:</p> <p>(c) Planting or cutting flax:</p> <p>(d) Mail delivery or collection:</p> <p>(e) Transport of school children:</p>	

A—continued

	Class of Payment	Rate of Tax De- duction
(f)	Milk delivery:	
(g)	Refuse removal:	
(h)	Caretaking or acting as watchman:	
(i)	Street or road cleaning.....	15c per \$1
6.	Payments for work done or services rendered (other than in, or on, or in connection with land used for farming or agriculture purposes, or a dwellinghouse or other premises used exclusively by the occupier or occupiers thereof for his or their own residential purpose), being work or services of the nature of the following namely:	
(a)	Cleaning of office, business, institutional, or other premises or any part of any such premises including windows:	
(b)	Cleaning or laundering of plant, vehicles, furniture, furnishings, fittings, or equipment:	
(c)	Gardening, including grass cutting and hedge cutting:	
(d)	Vermin destruction:	

A—continued

	Class of Payment	Rate of Tax De- duction
	(e) Weed destruction	20c per \$1
7.	Fees or other remuneration for or in relation to examining candidates for examinations, being for work or services of the nature of any of the following, namely:	
	(a) Setting examination papers or questions:	
	(b) Marking candidates' answers:	
	(c) Examining candidates orally:	
	(d) Examining candidates' practical work or performance....	33c per \$1
8.	Payments for work done or services rendered under contracts or arrangements which are wholly or substantially for the supply of labour in or in connection with the erection, extension, protection, insulation, decoration, repair, or renewal of buildings or other constructions (including the erection, extension, protection, or decoration of prefabricated or precut parts of buildings or other constructions) being work or services of any nature-	
	(a) That customarily can form part of the work or services of a carpenter under a building contract; or	

A—continued

Class of Payment	Rate of Tax De- duction
(b) That is undertaken in connection with the fixing of roofs, the fixing of steel, the erection of fences, or the laying of concrete, bricks, blocks, tiles, slabs, or stones of any description with regard to any building or other construction (not being a construction to which clause 4 this Part applies); or	
(c) That is undertaken in connection with the hanging of wallpaper, other decorative wall coverings or furnishings, or the painting or decoration (including plastering) of the exterior or interior of any buildings or other construction; or	
(d) That is undertaken in connection with the installation of any fibrous plaster, wall-board, insulating material, interior tiles, or other interior lining, including floor tiles, carpets, or linoleums or other floor coverings of any description	20c per \$1

A—continued

	Class of Payment	Rate of Tax De- duction
9.	Payments for work done or services rendered under contracts or arrangements or profit sharing agreements which are wholly or substantially for the supply of labour in or in connection with the operation or maintenance of any fishing boat required to be registered under section 5 of the Fisheries Amendment Act 1963	20c per \$1
10.	This clause was inserted, as from 1 October 1980, by reg 4 Income Tax (Withholding Payments) Regulations 1979, Amendment No 1 (SR 1980/191) and was revoked, as from 1 April 1995, by s 53(2)(c) Income Tax Act 1994 Amendment Act (No 2) (1995 No 21).	

Clauses 2 and 7 were amended, as from 1 April 1989, by regulation 2(a) and (b) Income Tax (Withholding Payments) Regulations 1977, Amendment No 7 (SR 1988/256) by substituting the expression “33c per \$1” for the expression “35c per \$1”.

Clause 4 was amended, as from 1 April 1997, by regulation 11 Income Tax (Withholding Payments) Regulations 1979, Amendment No 11 (SR 1996/378) by substituting the expression “section DO 3 or section DZ 3” for the expression “section 127”.

Clause 4 was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “section DO 1 or DO 2” for the words “section DO 3 or section DZ 3”.

Clause 4A was inserted, as from 1 April 2006, by regulation 6 Income Tax (Withholding Payments) Amendment Regulations 2005 (SR 2005/253) with application to payments made on or after 1 April 2006.

B

- 1A Payments for work done or services rendered in relation to the production of television, video, or film productions or presentations, provided that
- (a) the work or services are of a nature that is commonly involved in the on-set and off-set pre-production, production, and post-production process; and
 - (b) the payments are not specified payments to resident entertainers falling within the class specified in clause 4(a) of Part B; and
 - (c) the payments are not specified payments to non-resident entertainers falling within the class specified in clause 4(b) of Part B; and
 - (d) the payments are not contract payments to non-resident contractors falling within the class specified in Part E 20c per \$1
1. Fees or other remuneration for or in relation to contributions (including photographs, illustrations, and cartoons) by freelance journalists, writers, artists, or other regular or casual contributors-
- (a) To newspapers, magazines, journals, pamphlets, circulars, handbills or other like publications:
 - (b) For radio, television, theatrical, or stage productions or presentations, or other like productions or presentations 25c per \$1

B—*continued*

- 1A Payments for work done or services rendered in relation to the production of television, video, or film productions or presentations, provided that
- (a) the work or services are of a nature that is commonly involved in the on-set and off-set pre-production, production, and post-production process; and
 - (b) the payments are not specified payments to resident entertainers falling within the class specified in clause 4(a) of Part B; and
 - (c) the payments are not specified payments to non-resident entertainers falling within the class specified in clause 4(b) of Part B; and
 - (d) the payments are not contract payments to non-resident contractors falling within the class specified in Part E
- 20c per \$1
1. Fees or other remuneration for or in relation to contributions (including photographs, illustrations, and cartoons) by freelance journalists, writers, artists, or other regular or casual contributors-
2. Fees or other remuneration for or in relation to personal attendances exhibiting or demonstrating appliances, equipment, goods, or merchandise 25c per \$1

B—continued

- 1A Payments for work done or services rendered in relation to the production of television, video, or film productions or presentations, provided that
- (a) the work or services are of a nature that is commonly involved in the on-set and off-set pre-production, production, and post-production process; and
 - (b) the payments are not specified payments to resident entertainers falling within the class specified in clause 4(a) of Part B; and
 - (c) the payments are not specified payments to non-resident entertainers falling within the class specified in clause 4(b) of Part B; and
 - (d) the payments are not contract payments to non-resident contractors falling within the class specified in Part E 20c per \$1
1. Fees or other remuneration for or in relation to contributions (including photographs, illustrations, and cartoons) by freelance journalists, writers, artists, or other regular or casual contributors-
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 20c per \$1.

B—*continued*

- 1A Payments for work done or services rendered in relation to the production of television, video, or film productions or presentations, provided that
- (a) the work or services are of a nature that is commonly involved in the on-set and off-set pre-production, production, and post-production process; and
 - (b) the payments are not specified payments to resident entertainers falling within the class specified in clause 4(a) of Part B; and
 - (c) the payments are not specified payments to non-resident entertainers falling within the class specified in clause 4(b) of Part B; and
 - (d) the payments are not contract payments to non-resident contractors falling within the class specified in Part E
- 20c per \$1
1. Fees or other remuneration for or in relation to contributions (including photographs, illustrations, and cartoons) by freelance journalists, writers, artists, or other regular or casual contributors-
for use in advertising, or promoting the sale of appliances, equipment, goods, or merchandise, or for any other purpose
4. Specified payments to-

B—continued

- 1A Payments for work done or services rendered in relation to the production of television, video, or film productions or presentations, provided that
- (a) the work or services are of a nature that is commonly involved in the on-set and off-set pre-production, production, and post-production process; and
 - (b) the payments are not specified payments to resident entertainers falling within the class specified in clause 4(a) of Part B; and
 - (c) the payments are not specified payments to non-resident entertainers falling within the class specified in clause 4(b) of Part B; and
 - (d) the payments are not contract payments to non-resident contractors falling within the class specified in Part E 20c per \$1
1. Fees or other remuneration for or in relation to contributions (including photographs, illustrations, and cartoons) by freelance journalists, writers, artists, or other regular or casual contributors-
- (a) Resident entertainers (other than apprentice jockeys or apprentice drivers in respect of shares of riding or driving fees)..... 20c per \$1
 - (b) Non-resident entertainers..... 20c per \$1

B—*continued*

- 1A Payments for work done or services rendered in relation to the production of television, video, or film productions or presentations, provided that
- (a) the work or services are of a nature that is commonly involved in the on-set and off-set pre-production, production, and post-production process; and
 - (b) the payments are not specified payments to resident entertainers falling within the class specified in clause 4(a) of Part B; and
 - (c) the payments are not specified payments to non-resident entertainers falling within the class specified in clause 4(b) of Part B; and
 - (d) the payments are not contract payments to non-resident contractors falling within the class specified in Part E 20c per \$1
1. Fees or other remuneration for or in relation to contributions (including photographs, illustrations, and cartoons) by freelance journalists, writers, artists, or other regular or casual contributors-
- (c) Resident apprentice jockeys or resident apprentice drivers in respect of shares of riding or driving fees 15c per \$1

B—continued

- 1A Payments for work done or services rendered in relation to the production of television, video, or film productions or presentations, provided that
- (a) the work or services are of a nature that is commonly involved in the on-set and off-set pre-production, production, and post-production process; and
 - (b) the payments are not specified payments to resident entertainers falling within the class specified in clause 4(a) of Part B; and
 - (c) the payments are not specified payments to non-resident entertainers falling within the class specified in clause 4(b) of Part B; and
 - (d) the payments are not contract payments to non-resident contractors falling within the class specified in Part E
- 20c per \$1
1. Fees or other remuneration for or in relation to contributions (including photographs, illustrations, and cartoons) by freelance journalists, writers, artists, or other regular or casual contributors-
5. Honoraria (including payments to Mayors of cities and boroughs and to Chairmen and members of Councils, Boards, committees,
- 33c per \$1.

B—*continued*

- 1A Payments for work done or services rendered in relation to the production of television, video, or film productions or presentations, provided that
- (a) the work or services are of a nature that is commonly involved in the on-set and off-set pre-production, production, and post-production process; and
 - (b) the payments are not specified payments to resident entertainers falling within the class specified in clause 4(a) of Part B; and
 - (c) the payments are not specified payments to non-resident entertainers falling within the class specified in clause 4(b) of Part B; and
 - (d) the payments are not contract payments to non-resident contractors falling within the class specified in Part E
- 20c per \$1
1. Fees or other remuneration for or in relation to contributions (including photographs, illustrations, and cartoons) by freelance journalists, writers, artists, or other regular or casual contributors-
and other like bodies, and to officials of societies, clubs, and other like organisations)
6. This clause was revoked, as from 1 April 1995, by s 53(2)(d) Income Tax Act 1994 Amendment Act (No 2) (1995 No 21).

Schedule Part B Clause 1A was inserted, as from 8 September 2003, by regulation 4 Income Tax (Withholding Payments) Amendment Regulations 2003 (SR 2003/186).

B—continued

Schedule Part B Clause 1A was inserted, as from 8 September 2003, by regulation 4 Income Tax (Withholding Payments) Amendment Regulations (No 2) 2003 (SR 2003/215).

Schedule Part B Clause 5 was amended, as from 1 April 1989, by regulation 2(c) Income Tax (Withholding Payments) Regulations 1979, Amendment No 7 (SR 1988/256) by substituting the expression “33c per \$1” for the expression “35c per \$1”.

C

[Revoked]

Part C was revoked by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 5 (SR 1986/298).

D

1. Payments made to the seller of-

- (a) Greenstone (nephrite):
- (b) Eels:
- (c) Revoked by reg 3 Income Tax (Withholding Payments) Regulations 1979, Amendment No 9 (SR 1991/299).
- (d) Whitebait:
- (e) Sphagnum moss-

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

D—*continued*

1. Payments made to the seller of-
 - (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 25c per \$1.

Schedule Part D, clause (e) was inserted by regulation 2 Income Tax (Withholding Payments) Regulations 1979, Amendment No 10 (SR 1992/28).

E

Contract payments to non-resident contractors..... 15c per \$1.

Part E was inserted by regulation 5 Income Tax (Withholding Payments) Regulations 1979, Amendment No 3 (SR 1981/304).

Part F

Schedule Part F: added, on 1 July 2008, by section 303 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Class of payment	Rate of tax deduction
A personal service rehabilitation payment for a claimant under the Injury Prevention, Rehabilitation, and Compensation Act 2001	15c per \$1

Explanatory note

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

These regulations consolidate and amend the Income Tax (Withholding Payments) Regulations 1975 and the amendments thereto.

Reprinted as at
1 July 2008

**Income Tax (Withholding Payments)
Regulations 1979**

Most of the tax deductions from withholding payments have been increased.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 6 December 1979.

Income Tax Act 2007

Public Act 2007 No 97
Date of assent
Commencement see section 2

A 1 Title

This Act is the Income Tax Act 2007.
Compare: 2004 No 35 s A 1

A 2 Commencement

1 April 2008

- (1) This Act comes into force on 1 April 2008.

Charitable entities

- (1B) Despite subsection (1), sections CW 41(2) and CW 42(1)(b) come into force on 1 July 2008.

Act effective for 2008–09 income year and later

- (2) However, except when the context requires otherwise, this Act applies only with respect to the tax on income derived in the 2008–09 income year and later income years.

Defined in this Act: income year, tax
Compare: 2004 No 35 s A 2

Section A 2(1B): inserted, on 1 April 2008, by section 307 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Part Z

Repeals, amendments, and savings

ZA 1 Repeals

Schedule 48

- (1) *Amendments incorporated into principal Act and regulations.*

Repeals effective only for 2008–09 income year and later

- (2) However, unless the context requires otherwise, the repeals listed in schedule 48 apply only in relation to the tax on income derived in the 2008–09 income year and later income years.

Defined in this Act: income, income year, tax
Compare: 2004 No 35 s YA 1

ZA 3 Transitional provisions

When reference to this Act includes earlier Act

- (1) A reference in an enactment or document to this Act, or to a provision of it, is to be interpreted as a reference to the Income Tax Act 2004, or the Income Tax Act 1994, or the Income Tax Act 1976, or to the corresponding provision of the earlier Act, to the extent necessary to reflect sensibly the intent of the enactment or document.

When reference to earlier Act includes this Act

- (2) A reference in an enactment or document to the Income Tax Act 2004, or the Income Tax Act 1994, or the Income Tax Act 1976, or to a provision of that earlier Act, is to be interpreted as a reference to this Act, or to the corresponding provision in this Act, to the extent necessary to reflect sensibly the intent of the enactment or document.

Intention of new law

- (3) The provisions of this Act, including any amendments made by this Act to the Tax Administration Act 1994, are the provisions of the Income Tax Act 2004 in rewritten form, and are intended to have the same effect as the corresponding provisions of the Income Tax Act 2004. Subsection (5) overrides this subsection.

Using old law as interpretation guide

- (4) Unless a limit in subsection (5) applies, in circumstances where the meaning of a taxation law that comes into force at the commencement of this Act (the **new law**) is unclear or gives rise to absurdity—
 - (a) the wording of a taxation law that is repealed by section ZA 1 and that corresponds to the new law (the **old law**) must be used to determine the correct meaning of the new law; and
 - (b) it can be assumed that a corresponding old law provision exists for each new law provision.

Limits to subsections (3) and (4)

- (5) Subsections (3) and (4) do not apply in the case of—
 - (a) a new law listed in schedule 51 (Identified changes in legislation); or

- (b) a new law that is amended after the commencement of this Act, with effect from the date on which the amendment comes into force.

Defined in this Act: taxation law

Compare: 2004 No 35 s YA 3

ZA 4 Saving of binding rulings

When, and extent to which, this section applies

- (1) This section applies when, and to the extent to which,—
 - (a) either—
 - (i) an applicant has applied for a private ruling, a product ruling, or a status ruling, before the beginning of the 2008–09 income year on an arrangement that is entered into, or that the applicant seriously contemplates will be entered into before the commencement of this Act; or
 - (ii) a public ruling is issued before the beginning of the 2008–09 income year; and
 - (b) the binding ruling is about—
 - (i) a taxation law that is repealed by section ZA 1 (the **old law**); or
 - (ii) a taxation law in the Income Tax Act 1994 that preceded and corresponded to the old law; and
 - (c) a new taxation law that corresponds to the old law (the **new law**) comes into force at the commencement of this Act; and
 - (d) in the absence of this section, the commencement of this Act would mean that the binding ruling would cease to apply because of section 91G of the Tax Administration Act 1994.

Ruling about new law

- (2) The binding ruling is treated as if it were made about the new law, so that the effect of the ruling at the commencement of this Act is the same as its effect before the commencement.

No confirmation rulings

- (3) To the extent to which a binding ruling continued by subsection (2) exists and applies to an arrangement, or to a person

and an arrangement, the Commissioner must not make a binding ruling on how—

- (a) the new law applies to the arrangement or to the person and the arrangement; or
- (b) this subsection applies to the arrangement or to the person and the arrangement.

Defined in this Act: arrangement, binding ruling, commencement of this Act, Commissioner, taxation law

Compare: 2004 No 35 s YA 4

ZA 5 Saving of accrual determinations

When, and extent to which, this section applies

- (1) This section applies when—
 - (a) a determination has been made before the beginning of the 2008–09 income year under—
 - (i) section 90 or 90AC of the Tax Administration Act 1994; or
 - (ii) section 64E of the Income Tax Act 1976; and
 - (b) the determination has not been cancelled before the beginning of the 2008–09 income year; and
 - (c) the determination is about—
 - (i) a taxation law that is repealed by section ZA 1 (the **old law**); or
 - (ii) a taxation law in the Income Tax Act 1994 or the Income Tax Act 1976 that preceded and corresponded to the old law; and
 - (d) a new taxation law that corresponds to the old law (the **new law**) comes into force at the commencement of this Act; and
 - (e) in the absence of this section, the commencement of this Act would mean that that determination would cease to apply because the taxation law to which it applied had ceased to exist.

Determination about new law

- (2) The determination is treated as if it were made about the new law, so that the effect of the determination at the commencement of this Act is the same as its effect before the commencement.

No confirmation determinations

- (3) To the extent to which a determination continued by subsection (2) applies, the Commissioner must not make a determination on how the new law applies.

Defined in this Act: commencement of this Act, Commissioner, taxation law
Compare: 2004 No 35 s YA 5

Contents

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Notes

1 *General*

This is an eprint of the Income Tax (Withholding Payments) Regulations 1979. It incorporates all the amendments to the Income Tax (Withholding Payments) Regulations 1979 as at 1 July 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

3 *List of amendments incorporated in this eprint (most recent first)*

Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109):
section 303

Income Tax Act 2007 (2007 No 97) section ZA 1(1)
