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Schedular Payments

Schedular payments previously known as withholding payments are payments made between parties for services where the relationship is not strictly one of employer and employee. The Income Tax Act lays down the types of activities where withholding tax must be deducted and paid to the IRD just like PAYE on wages and salaries. The list includes nineteen different activities but it is the activity of “supply of labour “ to building projects” that I want to concentrate on as this is relevant to the rebuild of Christchurch.

So a typical situation is a builder who contracts to do earthquake repair work and who in turn hires subcontractors such as painters and plasterers. The subcontractor is required to fill out an IR 330 tax declaration and use the WT tax code. The builder is required to deduct withholding tax of twenty percent . It makes no difference if the subcontractor is registered for GST. But no withholding tax is required to be deducted where the subcontractor is operating under a company structure or has obtained an exemption certificate (IR 331) from the IRD.

An exemption certificate may be issued by the Commissioner of the IRD to those who have identified themselves as being in business, are in receipt of income that is listed under schedule 4 of the Income Tax Act 2007 and who have a good record of filing returns and making payments. A person wanting an exemption certificate can apply for one by filling out an IR 332.

A business which makes scheduler payments must deduct withholding tax but is not required to deduct ACC earners levy or student loan obligations.

A business which makes scheduler payments and does not deduct withholding payments can incur significant penalties. The IRD can require the business to pay the tax. Late payment penalties and use of money interest apply from the date the tax is payable. But shortfall penalties of up to 150% for tax evasion may be applied where a

business knowingly does not deduct withholding tax. Where a company is at fault the IRD can apportion the shortfall penalty between the company and its officers. Also anybody who is subject to an evasion penalty gets their name printed in the Gazette.

You should contact your chartered accountant or financial advisor before making a financial commitment.

- Paul Sheehan is a chartered accountant. Phone 355 2636 for more information.