

# BRIDGING DOCUMENT FOR CONSULTATION

## TAX COMPLIANCE: REPORTING TAXABLE PAYMENTS

### Background

The 2011-12 Budget announcement, *Tax compliance – reporting taxable payments*, outlined the Government's intention to introduce measures to require certain businesses to report annually on payments made to contractors in the building and construction industry, with effect from 1 July 2012.

### Who has to report?

Entities whose primary business is in the building and construction industry must report payments made to contractors for building and construction services.

### When is an entity's primary business in the building and construction industry?

A business will be taken to be in the building and construction industry if more than 50 per cent of the business' income-earning activities are derived from building and construction services.

In cases where a business undertakes significant amounts of building and construction, but this activity is not their primary business, the business does not have to report under this regime.

Ordinary owner-occupier, owner-builders will not be required to report payments made under this measure.

### Examples

- A builder engages a painting firm to paint a building. Assuming the builder's primary business is in the building and construction industry, the builder must report the payments it makes to the painting firm under the contract.
  - If the painting firm then subcontracts some of the painting work to other painters, the painting firm will also have to report the payments it makes to the subcontractors (assuming the painting firm's primary business is in the building and construction industry).
- A hardware store sells building equipment to builders and homeowners. For an additional fee the store 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 as its primary business is not in the building and construction industry, but rather in the retail industry (i.e. 50 per cent or more of the business' income-earning activities are in the retail sector, and not derived from building and construction services).

- A department store sells air conditioning units for both domestic and commercial purposes. For an additional fee the store can arrange for the installation of the air conditioning unit. The store will not be required to report payments it makes to contractors as its primary business is not in the building and construction industry, but rather in the retail industry (i.e. 50 per cent or more of the business' income-earning activities are in the retail sector and not derived from building and construction services).
- A coal mining company establishes a new mining facility that requires the construction of a range of infrastructure including earthworks for the preparation of the mine site. The company contracts an earthwork company to carry out the work. The mining company will not be required to report payments it makes to the earthwork company as its primary business is not in the building and construction industry, but rather in the mining industry (i.e. 50 per cent or more of the business' income-earning activities are in the mining sector and not derived from building and construction services).
  - If, however, the earthwork company subcontracts the work out to other contractors, the payments made to those subcontractors will be reportable if the earthwork company's primary business is in the building and construction industry.
- An equipment hire store provides plant and machinery for hire to the building and construction industry (e.g. bobcats, scaffolding, tippers) ('dry hire'). The store can also provide the equipment with an operator ('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 per cent or more of the equipment hire store's income-earning activities relate to the 'dry hire' of the equipment, as that is not a building and construction service.
  - If, on the other hand the store derives more than 50 per cent of its income from provision of earthwork services through hiring out plant and machinery with an operator ('wet hire') the payments it makes to the operators will be reportable.

### **What are examples of building and construction?**

Building and construction activities relate to the assembly, construction, design, erection, site preparation, excavation, installation, alteration, modification, repair, improvement, demolition, destruction, dismantling or removal of any part of a building, structure, work, surface or sub-surface. It also includes the management or organisation of building and construction activities.

Examples of specific building and construction activities include, but are not limited to:

- 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 (e.g. 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 construction activity)
- Erecting frames (regardless of the materials)
- Erection of scaffolding
- Excavation and grading
- Fencing
- Flood control system construction
- Flooring (e.g. 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 (e.g. kitchens, bathroom components, laundry components, cupboards, etc)
- Installation of pre-fabricated temperature controlled structures
- Installation of septic tanks
- Installation of solar devices (e.g. 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

### **What are examples of buildings, structures, works, surfaces or sub-surfaces?**

Examples of buildings, structures, works, surfaces or sub-surfaces include, but are not limited to:

- 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 transmitting towers
- Tunnels
- Water tanks
- Waterworks

### What type of payments must be reported?

Actual payments made to contractors for building and construction services must be reported.

Goods-only payments are not required to be reported. For payments made for a mix of services and goods the payment must be reported unless the service component is not a building and construction service or is merely incidental to the provision of the goods (see examples below).

Where the service component is more than incidental to the provision of the goods, to reduce compliance costs, the business need only report the whole value of the payment.

#### *Examples*

- A builder hires a bobcat from an earthworks company. The bobcat is not hired with an operator ('dry hire'). The contract is only for a supply of goods (through a hire arrangement) and therefore the payment from the builder to the earthworks company for the hire is not a reportable payment. (The builder is assumed to be in the building and construction industry.)
  - For another job, the same builder hires a bobcat with an operator from an earthworks company ('wet hire'). The activity undertaken by the operator is a

building and construction activity and the supply of labour is more than incidental to the supply of goods. Therefore the payment of the invoice is not a goods-only payment and the payment must be reported.

- A paint store provides paint to painters as well as an in-house painting service. For a small additional service fee the store will tint the paint to the colour the painter instructs. As the provision of the tinting service is merely incidental to the supply of the paint, the painter will not be required to report the payment it makes to the paint store. (The painter is assumed to be in the building and construction industry.)
- A building supply and construction firm sells building products to builders as well as providing building services. A builder buys timber from the firm and pays extra to have the firm deliver the timber to the worksite. However, as the provision of the delivery service is not a building and construction activity, the builder will not be required to report the payment it makes to the building supply firm. (The builder is assumed to be in the building and construction industry.)
- An electrical business provides goods and services for various electrical applications. A builder pays the 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 goods, the builder will be required to report the payment it makes to the electrical business. (The builder is assumed to be in the building and construction industry.)

### **What will the report contain?**

Businesses are only required to provide an aggregate report for each contractor they make payments to during the income year. This will require businesses to report on the total of the payments they have made to the contractor during the income year, not the details or value of each payment made during the income year.

### **Frequency of report**

Businesses will be required to report on an annual basis. The Commissioner will vary the current quarterly reporting requirement in the Payment, ABN and Identification Verification System to an annual requirement.

However, to accommodate businesses that have expressed a desire to report more frequently (and thereby reduce the lumpiness of a single year-end report), the ability to 'opt-in' to a quarterly reporting system could also be considered.

The due date for the annual report is 21 July, that is 21 days after the end of the reporting period, consistent with the existing legislation.

An appropriate form will be developed to capture the data and transmit the report. Further consultation will be undertaken with software developers so that the form can be developed having regard to existing systems.

## What information must be reported?

Subject to further consultation, the following details are likely to be required:

- the contractor's name;
  - this will be the name that appears on the invoice the contractor provided
- the contractor's ABN;
- the contractor's address (if known);
- the total amount paid or credited to the contractor over the income year;
- whether any GST has been charged.