

Withholding tax and non-resident contractors providing services in New Zealand



It's critical for all parties involved that the potential tax imposed on any services is determined at the beginning. The application of a 30% tax on gross revenues can 'make or break' a deal.

New Zealand withholding tax is generally payable on all payments to non-residents who provide services in New Zealand. Withholding tax is required to be deducted by the recipient of the services. The applicable rate for contractors who are companies is 20% of the gross payment, and for other contractors, it's 30% of the gross payment. However, the rates for companies and other contractors are reduced in the following situations.

- The non-resident contractor has obtained a New Zealand Inland Revenue Number and provided a signed IR 330 Tax Deduction Certificate: the rate is reduced to 15%.
- A Certificate of Exemption is obtained by the non-resident contractor from the New Zealand Inland Revenue: no deduction is required.
- A Special Tax Rate Certificate is obtained from the New Zealand Inland Revenue: the rate prescribed in the Certificate is deducted.

- The non-resident contractor is in New Zealand for 92 days or less in a 12 month period, and is eligible for total relief from New Zealand income tax under a Double Tax Agreement: no deduction is required.
- The amount paid for services provided are less than NZ\$15,000 in any period of 12 months: no deduction is required.
- The payments are cost reimbursing payments to non associated parties, eg travel and accommodation: no deduction is required.

The withholding tax deducted is paid to the New Zealand Inland Revenue and the net amount is paid to the non-resident contractor. While the non-resident contractor may be entitled to claim a credit for New Zealand tax paid against taxes in their home country, there is a timing disadvantage.

A Certificate of Exemption from withholding tax is usually granted by virtue of the provisions of a Double Tax Agreement between New Zealand and the country of residence of the contractor. The ability to get an exemption will depend on the extent and nature of the activities in New Zealand and the contractor's country of tax residence. Determining eligibility for a Certificate of Exemption requires both knowledge of the contractor's business and interpretation of the provisions of the relevant Double Tax Agreement.

The process of obtaining a Certificate of Exemption once eligibility has been established is relatively simple. A written application must be made to the New Zealand Inland Revenue providing the following details:

- name of contractor
- address and country of residence of contractor
- period of time in New Zealand related to the contract service
- service to be provided
- who the service will be provided to
- contract price
- copy of the contract
- confirmation that the contractor does not have a fixed base in New Zealand from which a service activity is conducted
- names of all the non-resident contractor's employees who will be present in New Zealand, and their expected arrival and departure dates
- details of any sub-contractors not resident in New Zealand
- a brief description of other work the contractor has undertaken in New Zealand during the past two years, or is likely to undertake in the next year.

A Special Rate Certificate generally reduces the withholding tax rate to a percentage which more accurately reflects the contractor's final New Zealand tax liability. Details similar to those required for a Certificate of Exemption are required to be submitted to the New Zealand Inland Revenue, together with a forecast of the New Zealand taxable income for the period under review.

It is important to note the Certificate is issued with a commencement and expiry date. These dates relate to when the payment is made to the contractor and not when the work was performed. Therefore it's important when applying for the Certificate to ensure the application period of validity allows sufficient time for the last payment to be made.

It should be noted that withholding tax deducted is not a final tax, but a payment on the account of the non-resident contractor's year end income tax liability. Non-resident contractors are required to file an income tax return in New Zealand after the end of New Zealand's tax year, which is 31 March.

Income tax is payable on net income, so the end of year return could result in a refund or further payment of tax. Non-resident contractors with Certificates of Exemption are usually not required to file end of year income tax returns.

If you would like to find out more, please contact us.



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