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Dear possible Building and Construction Industry Client,

You may recall that in our 2012 Newsletter (dispatched 7th June 2012) (page 3), the ATO is now requiring businesses in the building and construction industry to report the total payments they make to each contractor that has provided to them building and construction services during each year (starting from 1st July 2012).

We have received numerous queries on this matter since our 2012 Newsletter has gone down the wire.

(We know that the new reporting system will not affect you all but to help you decide if you are in the cross hairs we are now supplying further details per this email.)

(We have also attached a Taxable Payments Reporting worksheet issued by ATO to assist those of you that may need to report.)

To assess whether or not you need to be part of the Taxable Payments Reporting System

A) Who needs to report?

You are require to report if **all** of the following apply:

- 1) You are a business that is primarily engaged in the building and construction industry;
and
- 2) You make payments to contractors for building and construction services; *and*
- 3) You have an Australian Business Number (ABN).

*Note: "Primarily in building and construction industry" means if 50% or more of your business activities relate to building and construction services OR 50% or more of your business income is derived from providing building and construction services or in the financial year immediate before the current financial year you have had 50% or more of your business income derived from providing building and construction services (*refer our 2012 Newsletter page 3*)*

If your answers to all of the above three (3) questions are "YES" then you are required to participate in the Taxable Payment Reporting system as from the 1st July 2012.

On the other hand if there was at least one question that you answered as "NO" then you are one of the lucky ones and are outside the new reporting system.

(To help your understanding, we have attached the examples of who may be primarily in building and construction industry issued by ATO.)

B) Assume that all questions were :”YES” --What you need to do now?

From 1st July 2012, you need to start a record that will enable to capture all your payments to each contractor separately providing to you building and construction services.

Please make sure you do record the following details for each contractor:

- 1) ABN
- 2) Full Name
- 3) Address
- 4) Gross amount you paid to the Contractor
- 5) Total GST included in the gross amount

C) Recording method

- 1) The ATO has tried to make your job easier and produced a manual Taxable Payments Reporting Worksheet (*see attached Taxable Payment Reporting Worksheet*)
- 2) For you MYOB/Quickbooks users you can use the Card function to capture the required information and with this make up your report to the ATO.

D) By when do you need to report to the ATO?

By early July 2013, you will then need to sum up the contractor payments for each contractor that provided you with building and constructions services during the year. The information that you report to the ATO will be matched against other information that the ATO holds to detect contractors who have not lodged tax returns or who have failed to include all their income in their tax returns.

And there is a year to year snakes tail in the reporting obligations

If you do not earn 50% or more of your income from building and construction services in the 2014 financial year but you were required to report Taxable Payments for the prior 2013 financial year, you will still need to report payments made to your contractors in the 2014 financial year. Basically if you get on the merry-go-around it takes two years to get off.

Recommendation

If you are in the building and construction industry and you do make payments to contractors who provide building and construction services, even though at the start of the year you believe that you will be below the 50% business activity threshold, we recommend you still keep a record of payments etc for all your contractors. Keeping records from the start will make your job easier if in the end you do need to report.

Hope this helps in your understanding and if you require further guidance please contact us.

Lane Taylor and the Team

Examples of primarily in building and construction industry issued by ATO

Example 1: Business primarily in the building and construction industry

J and L Builders earns all of its income from building commercial properties for its clients. As 50% or more of J and L Builders' income is from providing building and construction services, it is primarily in the building and construction industry. J and L Builders will be required to report payments it makes to contractors for providing building and construction services.

Example 2: All business activity in building and construction

ABC, a property developer, has purchased a block of land in the Melbourne city precinct and intends to build apartments. ABC has created a separate entity, Upmarket Apartments Pty Ltd, to manage the project and construction of the apartments. Upmarket Apartments will be required to report payments it makes to contractors for providing building and construction services because 50% or more of its business activity will relate to building and construction services.

Example 3: Not all income from building and construction

Scott's Cabinet Makers Pty Ltd is a business that makes and installs custom-made kitchen cabinets, which is a type of activity that is a building and construction service. It also makes and sells ornamental wooden carvings. The table below shows the income Scott's Cabinet Makers earned from its different activities.

Financial year	Income from...	
	Cabinet making	Carvings
Year ended 30 June 2013	45%	55%
Year ended 30 June 2014	60%	40%
Year ended 30 June 2015	40%	60%

As Scott's Cabinet Makers earns 50% or more of its income from building and construction services in the financial year ending 30 June 2014, it will need to report on payments made to contractors in the 2013-14 financial year. Although it will not earn 50% or more of its income from building and construction services in the 2014-15 financial year, it will still need to report payments made to contractors in that year because of its 2013-14 income.

Example 4: Retail business providing minor building and construction services

Harry's Hardware is a business that sells building equipment to builders and home owners. For an additional fee, Harry's Hardware 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 who do the installation as its business is not primarily in the building and construction industry, but rather in the retail industry. It does not meet either the activity or income tests of being primarily in the building and construction industry.

Example 5: Business with separate entity for building and construction services

Harry's Hardware sets up a separate business entity, Harry's Installation Services, to install the products it sells. Harry's Hardware will not have to report on payments made to contractors as it is not carrying on a business that is primarily in the building and construction industry. However, as all of the income for Harry's Installation Services is from the provision of building and construction services (installation of products), it will have to report payments it makes to contractors for such services.

Example 6: Mining infrastructure

Black Coal establishes a new mining facility that requires the construction of a range of infrastructure. Black Coal contracts Earl's Earthworks to carry out the work. Earl's Earthworks in turn subcontracts the work. Black Coal will not be required to report payments it makes to Earl's Earthworks because all of its income is from coal mining. Earl's Earthworks, which is carrying on a business primarily in the building and construction industry, will need to report payments it makes to subcontractors.

Example 7: Equipment hire with or without an operator

An equipment hire store provides plant and machinery for hire to the building and construction industry - for example, bobcats, scaffolding and tippers (commonly known as 'dry hire'). The store can also provide the equipment with an operator (commonly known as '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 if 50% or more of the equipment hire store's income or business activity relates to the 'dry hire' of the equipment, as this is not a building and construction service.

A builder who hires a bobcat **with a driver** will have to report the payment it makes to the equipment hire store for providing a building and construction service. Wet hire is a building and construction service.

Example 8: Contractor paying another contractor

Rob's Installation Services (principal contractor) contracts Simon (first tier subcontractor) to install products. Simon is not coping with the amount of work Rob's Installation Services is providing him and subcontracts some of the work to Bill (second tier subcontractor). Rob's Installation Services will need to report on the payments it makes to Simon. If Simon is carrying on a business that is primarily in the building and construction industry he will be required to report the payments he makes to Bill.

Payments for both labour and materials

Where invoices you receive include both labour and materials, whether itemised or combined, you report the whole amount of the payment unless the labour is incidental.

Example 9: Incidental supply of services

Kevin purchases a stock of new taps from Harry's Hardware to install in a commercial building. Harry installs one tap by way of demonstration so that Kevin knows how to install the rest. Harry's Hardware invoices Kevin for the taps and includes a small amount for the labour to demonstrate the installation. Kevin does not need to report the payment he makes to Harry's Hardware because the labour component of installing the tap is incidental to the supply of the materials.

Example 10: More than incidental supply of services

An electrical business provides labour and materials for various electrical applications. A builder pays the electrical 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 materials, the builder will be required to report the total payment made to the electrical business. The builder is carrying on a business that is primarily in the building and construction industry.

TAXABLE PAYMENTS REPORTING – WORKSHEET

DETAILS OF PAYMENTS TO CONTRACTORS FOR BUILDING AND CONSTRUCTION SERVICES

This worksheet may help you record details of payments you make to contractors for building and construction services. You can use the details you record in this worksheet to help you complete your *Taxable payments annual report*.

This worksheet is for your records only – do not send it to the ATO.

Financial year	
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Contractor's name

Contractor's address

Contractor's ABN

Contractor's contact number

Date paid <i>(eg 02/07/12)</i>	Details <i>(eg invoice number, labour and materials, etc)</i>	Total tax withheld where ABN not quoted	GST amount paid <i>(eg \$100.00)</i>	Total amount paid <i>(including GST)</i> <i>(eg \$1,100.00)</i>
Total				