

PAYG on OCCASIONAL PAYMENTS TO MINISTERS

Tax Law changes effective from 1 July 2002 introduced important changes for occasional payments to Ministers of Religion. Administrators and Treasurers need to be aware of these changes.

Prior to 30 June 2002

Since the introduction of The New Tax System on 1 July 2000, any payment in excess of \$50.00 (and then changed to \$75.00) has been subject to PAYG Withholding obligations. To avoid Withholding Tax at 46.5% the standard requirement has been to quote an Australian Business Number (ABN). In exceptional circumstances, there has been provision for the presentation of a Declaration (Statement by a Supplier) to the paying entity to declare that there are no income tax obligations in respect to the payment. However arrangements of a temporary nature for occasional payments to Ministers of Religion were made initially. These temporary arrangements provided a Withholding Tax rate of 0% to any payments to Religious Practitioners who were not "employees". This means that no ABN was required so occasional payments, such as preaching fees and funeral fees, did not have PAYG Withholding Tax deducted.

At the time this concession was provided the ATO stated that this was a short-term arrangement to enable them to examine the relevant issues more closely.

CHANGES FROM 1 JULY 2002

This concession was changed and the 0% rating arrangements ceased as of 30 June 2002. Under the new arrangement Ministers of Religion who are not employees will be subject to PAYG Withholding Tax deductions for payments of one-off type payments. **Ministers of Religion are also now barred by the new laws from obtaining an ABN in respect of Religious activities.** There are still some special instances where a 0% will continue to apply (eg author).

Where a Religious Practitioner undertakes activities in the pursuit of the calling of Religious Practitioner, AND as a member of a religious institution, the minister can quote the Religious Institutions ABN. However this presumes that the payment becomes the income of the Religious Institution and not of the practitioner. This is not consistent with most financial arrangements between a Minister and his Church. There will however be instances where, by virtue of the arrangements between Minister and Institution already in place, the income would automatically be the income of the Institution. In those circumstances the matter presents no difficulty.

1. Where the payer is a non-religious institution, all payments to Religious Practitioners for religious duties except for the provision of chaplaincy and/or counselling will have a Withholding rate of 0%. This means that payments such as funeral fees will not require PAYG Withholding Tax to be deducted. Where the payments for chaplaincy and/or counselling exceed \$100 per week, such payments will be subject to the normal Withholding at rates of tax applicable to employees and a Tax File Number (TFN) Declaration will be required.
2. Where the payer is a Religious Institution, most payments to the Religious Practitioner can be made subject to the PAYG Withholding arrangements at the rates of tax applicable to employees. In such circumstances a TFN Declaration is needed. This will

normally not be the primary TFN Declaration of the minister (where the general tax free threshold is claimed).

As a special concession - where the payment is for locum and similar relief arrangements and the services rendered do not exceed two days in any quarter (three month period ending 31 March, 30 June, 30 September or 31 December), such payments will have a PAYG Withholding rate of 0%. This means that such qualifying payments as preaching or lecture fees will not require PAYG Withholding Tax to be deducted.

The ATO have provided Facts Sheets on these issues and there will also be information on their website. The website can be located at www.ato.gov.au and search for 'PAYG Withholding' and 'Religious Practitioners'.

There is a further exception to these concessional arrangements where the payment made is deemed by the ATO to be substantially above "normal" payments. This may occur in special instances where a visiting speaker receives a very large gift, often resulting from a specially designated offering. While this is not a common occurrence, we are aware of instances where it may represent a "gift" of more than \$1,000.00. In such a circumstance, the ATO have ruled the full PAYG Withholding Tax deduction of 46.5% is to apply.

The issue in all these circumstances relates to the rendering of a service. The fact that the payment is lower than, or higher than, a normal payment for such a service is not relevant. The fact that the paying entity is intending to provide a thank-you gift out of all proportion to the value of the service rendered does not change the basic principle in tax terms.

The revised arrangements for Religious Practitioners can be summarised as follows:

- Payments of \$75.00 or less will continue to be free of Withholding Tax.
- Funeral fees will continue to be free of Withholding Tax.
- Occasional preaching fees and lecturing fees paid by Religious Institutions will continue to be free of Withholding Tax provided the services do not exceed two days in any quarter.
- Where preaching or lecturing services exceed two days in any three-month period, a Religious Institution needs to obtain a TFN Declaration and to withhold tax at rates applicable to employees. If this is not done, the Religious Institution may be liable to pay 46.5% Withholding Tax on the relevant payments.
- Payments by a non-religious institution for religious services will generally continue to have a 0% rating where they are of an occasional nature.
- Payments by a non-religious institution for religious services of an ongoing nature will require a TFN Declaration and be subject to TFN Withholding arrangements when the payment exceeds \$100.00 per week.
- A special, large "thank-you" gift will be subject to full PAYG at 46.5%.
- A "Statement by a Supplier" declaration can be accepted by the payer to exempt a payee for the special reasons that are outlined in that form.