



PAYG withholding – voluntary agreements

This fact sheet explains how a payer and payee (independent contractor) can enter into a voluntary agreement to have amounts withheld from payments to help the payee meet their expected income tax liability.

WHO SHOULD READ THIS FACT SHEET?

Read this fact sheet if you:

- pay an individual who performs work or services as an independent contractor and they want to enter into a voluntary agreement with you, or
- are paid to perform work or services as an independent contractor.

WHAT IS A VOLUNTARY AGREEMENT?

A voluntary agreement is an agreement between a payer and a payee (independent contractor) to bring the payee's work payments into the pay as you go (PAYG) withholding system. The payee must be an individual who has an Australian business number (ABN), and the payments must not be subject to any other PAYG withholding.

Where there is a voluntary agreement between a payer and a payee, the payer must withhold amounts from payments they make to the payee and send the amounts withheld to the Tax Office.

! Payers can only enter into a voluntary agreement if the payee is being paid as an independent contractor. They cannot enter into a voluntary agreement if the payee is:

- an employee, or
- being paid under a labour hire arrangement.

WHAT ARE THE BENEFITS OF A VOLUNTARY AGREEMENT?

Voluntary agreements are a good way to help independent contractors meet their tax obligations. By having an amount withheld by the payer, independent contractors can make regular contributions towards their expected income tax liability. The Tax Office encourages payees who are having difficulties meeting their tax obligations to enter into voluntary agreements with their payers.

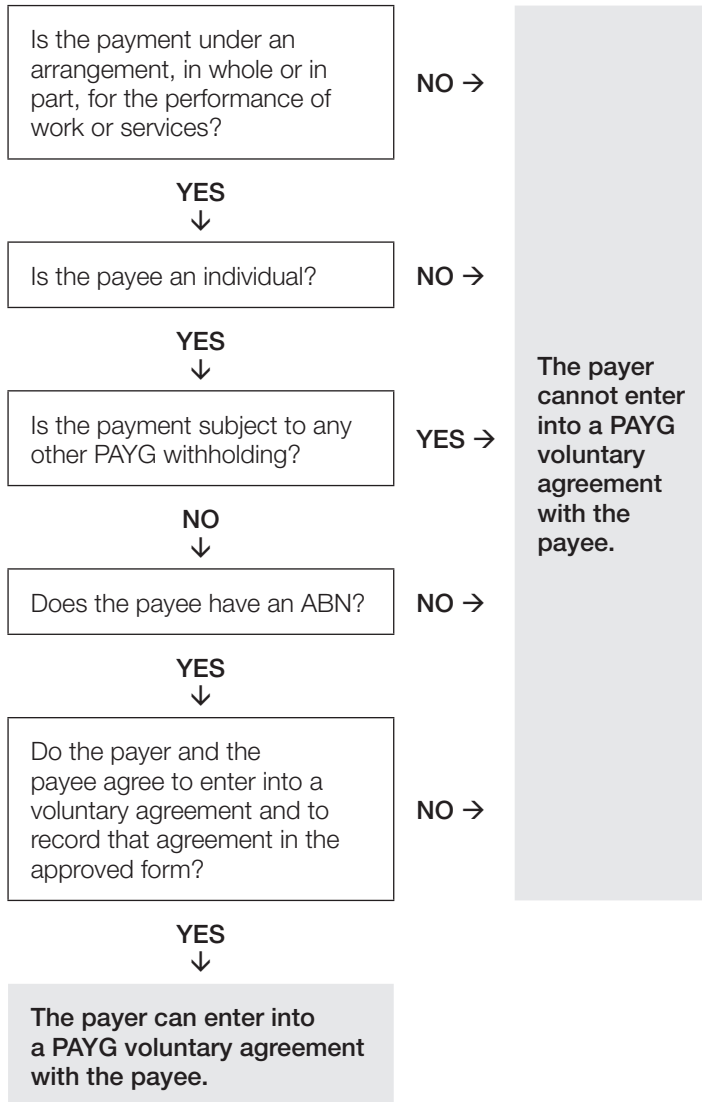
WHAT TYPES OF ARRANGEMENTS ARE SUITABLE FOR A VOLUNTARY AGREEMENT?

Voluntary agreements to withhold may only be used where no other PAYG withholding applies and the payment is partly or wholly for the performance of work or services.

For example:

- a computer consultant working as an independent contractor for a manufacturing company to develop an electronic reporting system
- an electrician working as an independent contractor for a building company to undertake electrical work on new units, or
- a marketing consultant working as an independent contractor for a large retailing firm to undertake market research.

The diagram below outlines the circumstances where a payer can enter into a voluntary agreement with a payee.



WHAT DOES A VOLUNTARY AGREEMENT INCLUDE?

A voluntary agreement is a written agreement between a payer and a payee that includes:

- the start date of the agreement
- what the payments are for (for example, plumbing services)
- a statement that the payments made under the arrangement are subject to a voluntary agreement under section 12-55 of Schedule 1, Part 2-5 of the *Taxation Administration Act 1953*
- the payer’s ABN, name and address
- the payee’s ABN, name and address
- the rate of withholding, and
- the signatures of both the payer and the payee.

A *voluntary agreement for PAYG withholding (NAT 2772)* form is available from our website at www.ato.gov.au

The payer doesn’t have to use this form, but any voluntary agreement must be a written agreement including all the information specified above.

If preferred, the payer and payee can have an electronic voluntary agreement, provided that all the above items are included in the electronic agreement and the payer has adequate computer system controls in place to ensure the security and accuracy of the agreement.

! Do not send a copy of the voluntary agreement to the Tax Office. Each party should keep a copy for their records.

HOW MUCH SHOULD BE WITHHELD?

The withholding rate under a voluntary agreement is either the payee’s instalment rate as notified by the Tax Office called the Commissioner’s instalment rate (CIR) or a flat rate of 20%. If the payee:

- has a CIR of more than 20%, the payer withholds at the CIR
- has a CIR of 20% or less, the payer withholds at the flat rate of 20% unless both parties agree to use the CIR, or
- does not know their CIR at the time of the agreement, the payer withholds at the flat rate of 20%.

To work out how much to withhold, the payer subtracts any goods and services tax (GST) charged from the gross amount (invoiced amount) payable and multiplies the result by the withholding rate specified in the voluntary agreement.

The payee is advised of their CIR after the lodgment of their most recent income tax return. For the purpose of voluntary agreements, the CIR used must be the rate notified by the Tax Office.

! The payee must disclose their CIR to the payer or state that they do not have one.

HOW LONG DOES A VOLUNTARY AGREEMENT LAST?

A voluntary agreement can cover a specific task or apply to successive arrangements between the payer and the payee.

When the payee is first advised of their CIR, or advised of a new CIR, the payer may need to enter into a new agreement after considering the rules applying to the rate of withholding (as explained on page 2).

The payer and the payee can each end a voluntary agreement at any time by notifying the other party in writing. The Tax Office doesn't need to be notified of the cancellation of the agreement or any changes made to the voluntary agreement.

HOW LONG DO RECORDS NEED TO BE KEPT?

The payer and the payee must keep a copy of the voluntary agreement while it is in force and for five years after the last payment is made under the agreement. Copies do not have to be sent to the Tax Office.

HOW DOES A PAYER REPORT AMOUNTS WITHHELD UNDER VOLUNTARY AGREEMENTS?

The payer needs to:

- pay any amounts withheld under voluntary agreements to the Tax Office (large withholders must do this by direct credit)
- complete and lodge activity statements including any amounts withheld under voluntary agreements
- give each payee a *PAYG payment summary – voluntary agreement* (NAT 3223) by 14 July after the financial year (or earlier if requested), and
- complete an annual report of all payments made under voluntary agreements and send this to the Tax Office by 14 August each year.

WHEN DO PAYEES CHARGE GST?

If a payee is not registered for GST, they cannot include GST in the price of the goods or services they supply, nor are they entitled to GST credits.

If a payee is registered for GST, they can claim GST credits for any GST paid on items they buy and use in performing the work under the voluntary agreement.

Payees may also need to charge GST for the goods or services they supply the payer under the voluntary agreement. This depends on whether or not the payer is entitled to a full GST credit.

! The payer must indicate on the voluntary agreement form if they are entitled to a full GST credit.

If the payer:

- would normally be entitled to a full GST credit, the payee can't charge GST on the goods or services they supply under the voluntary agreement
- is not entitled to a full GST credit and the payee is registered for GST, the payee must charge GST on any goods or services subject to GST supplied under the voluntary agreement.

EXAMPLE: Payer entitled to full GST credit

Tony is a self-employed bricklayer. He wins a contract with Housebuilders Inc., a house building company, to complete all of the bricklaying for Housebuilders Inc. related to their current property development. Tony and Housebuilders Inc. agree to enter into a voluntary agreement so that Housebuilders Inc. withholds amounts from the payments to Tony.

Tony is registered for GST. He can't include GST in the price he charges for the bricklaying services for Housebuilders Inc. because they are entitled to a full GST credit. However, he can claim GST credits for any GST paid on goods or services he buys or uses in performing the work.

EXAMPLE: Payer NOT entitled to full GST credit

Jim runs a computer programming business and contracts with Big Bank Inc. to help develop a program for internet banking. Jim and Big Bank agree to enter into a voluntary agreement so that Big Bank withholds payments from Jim.

As Big Bank makes financial supplies it is not entitled to claim GST credits for the things it buys, including Jim's services, that relate to the supply of financial services. Jim is registered for GST and so must include GST in the price he charges Big Bank. Jim can also claim GST credits for any GST paid on goods or services he buys or uses in performing the work.

 MORE INFORMATION

- phone **13 28 66** for PAYG withholding matters, or
- visit our website **www.ato.gov.au**

If you do not speak English well and want to talk to a Tax Officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.

OUR COMMITMENT TO YOU

We are committed to providing you with advice and information you can rely on.

We make every effort to ensure that our advice and information is correct. If you follow advice in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it. However, we will not charge you a penalty or interest if you acted reasonably and in good faith.

If you make an honest mistake when you try to follow our advice and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money, and we may also charge you interest.

If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

You are protected under GST law if you have acted on any GST advice in this publication. If you have relied on GST advice in this publication and that advice later changes, you will not have to pay any extra GST for the period up to the date of the change. Similarly, you will not have to pay any penalty or interest.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

The information in this publication is current at January 2007. We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at **www.ato.gov.au** or contact us.

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