



Taxation Administration Amendment Regulation 2012 (No. 1)

Select Legislative Instrument 2012 No. 37

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Taxation Administration Act 1953*.

Dated 21 March 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

DAVID BRADBURY
Assistant Treasurer

1 Name of regulation

This regulation is the *Taxation Administration Amendment Regulation 2012 (No. 1)*.

2 Commencement

This regulation commences on 1 July 2012.

3 Amendment of *Taxation Administration Regulations 1976*

Schedule 1 amends the *Taxation Administration Regulations 1976*.

Schedule 1 Amendment

(section 3)

[1] After Part 7

insert

Part 8 Payment, ABN and identification verification system

64 Reporting requirements — building and construction industry

- (1) For section 405-5 of Schedule 1 to the Act, a supply by a supplier to a purchaser is specified if all of the following circumstances apply:
- (a) the purchaser is carrying on a business that is primarily in the building and construction industry;
 - (b) the purchaser has an ABN;

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- (c) the supplier supplies to the purchaser:
- (i) building and construction services; or
 - (ii) a combination of goods and building and construction services, unless the supply of services is incidental to the supply of the goods.
- (2) Subregulation (1) does not apply if both the supplier and the purchaser are members of:
- (a) the same consolidated group; or
 - (b) the same MEC group.
- (3) Subregulation (1) does not apply if the payment made for the supply is a payment of the kind mentioned in paragraph (a) of the definition of *withholding payment* in subsection 995-1 (1) of the *Income Tax Assessment Act 1997*.
- (4) An expression used in this regulation and in the *Income Tax Assessment Act 1997* has the same meaning in this regulation as in that Act.

Note For the definitions of the following expressions, see subsection 995-1 (1) of the *Income Tax Assessment Act 1997*:

- ABN
 - consolidated group
 - MEC group
 - member, in relation to a consolidated group
 - member, in relation to a MEC group
 - supply.
- (5) A purchaser is taken to be carrying on a business that is primarily in the building and construction industry only if:
- (a) in the current financial year, 50% or more of the purchaser's business activity relates to building and construction services; or
 - (b) in the current financial year, 50% or more of the purchaser's business income is derived from providing building and construction services; or
 - (c) in the financial year immediately preceding the current financial year, 50% or more of the purchaser's business income was derived from providing building and construction services.

(6) In this regulation:

building and construction services includes any of the following activities, if the activities are performed on, or in relation to, any part of a building, structure, works, surface or sub-surface:

- (a) alteration;
 - (b) assembly;
 - (c) construction;
 - (d) demolition;
 - (e) design;
 - (f) destruction;
 - (g) dismantling;
 - (h) erection;
 - (i) excavation;
 - (j) finishing;
 - (k) improvement;
 - (l) installation;
 - (m) maintenance;
 - (n) management of building and construction services;
 - (o) modification;
 - (p) organisation of building and construction services;
 - (q) removal;
 - (r) repair;
 - (s) site preparation.
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