

TD 2001/10 - Income tax: is the payer of a payment which is subject to Pay As You Go withholding required to give the recipient of the payment a payment summary and a copy of that payment summary ?

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! This document has changed over time. This is a consolidated version of the ruling which was published on 4 July 2007

Taxation Determination

Income tax: is the payer of a payment which is subject to Pay As You Go withholding required to give the recipient of the payment a payment summary and a copy of that payment summary?

Preamble

*This document does not rule on the application of a 'tax law' (as defined) and is, therefore, not a 'public ruling' for the purposes of Part IVAAA of the **Taxation Administration Act 1953**. The document is, however, administratively binding on the Commissioner of Taxation. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a 'public ruling' and how it is binding on the Commissioner.*

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

1. Yes. However the Commissioner has varied the requirement for a duplicate copy to be given in the circumstances outlined in paragraphs 4 and 4A of this Determination.
2. An entity (the payer) which makes a payment to another entity, that is subject to Pay As You Go (PAYG) withholding, is required to issue the recipient of the payment (the payee) with both an original and a duplicate copy of a PAYG withholding payment summary, as per sections 16-155, 16-160 and 16-167 in Schedule 1 to the *Taxation Administration Act 1953* ('TAA 1953').
3. However, section 16-180 in Schedule 1 to the TAA 1953 enables the Commissioner of Taxation, having regard to the special circumstances of a particular case or class of cases to exempt an entity or a class of entities from the specific requirements of issuing payment summaries referred to in sections 16-155, 16-160 and 16-167 in Schedule 1 to the TAA 1953. A copy of a variation that applies to a class of entities must be provided to each entity or published in the Gazette.
4. Where an entity (the payer) has made a PAYG withholding from a payment because;
 - the recipient did not quote their Australian Business Number (section 12-190 in schedule 1 to the TAA 1953)
 - the recipient did not quote their Tax File Number in respect of an investment (section 12-140 to 12-170 in schedule 1 to the TAA 1953)
 - the payment was a dividend, interest or royalty paid to an overseas person or foreign resident (sections 12-210 to 12-285 in schedule 1 to the TAA 1953)

the Commissioner of Taxation has exempted the payer entity from the requirement to provide the recipient of the payment with a duplicate copy of the original payment summary under the power contained in section 16-180 having regard to the special circumstances of this class of cases. A copy of the notice of exemption to this effect was published in the Commonwealth of Australia

Gazette No. GN 42, 25 October 2000. The exemption is effective from 11 October 2000 and applies to payment summaries given on or after that date.

4A. Where the payer has made a PAYG withholding from:

- a payment for works and services (under Subdivision 12-B of Schedule 1 to the TAA 1953) except where there is a voluntary agreement to withhold (under section 12-55) or the payment is made under a labour hire arrangement or is specified by the regulations (under section 12-60);
- a retirement payment or annuity (under Subdivision 12-C of Schedule 1 to the TAA 1953) except for eligible termination payments (under section 12-85); or
- a benefit or compensation payment (under Subdivision 12-D of Schedule 1 to the TAA 1953),

the Commissioner has exempted the payer from the requirement to provide the recipient of the payment with a duplicate copy of the original payment summary. The Commissioner has granted the exemption under the power contained in section 16-180 of Schedule 1 to the TAA 1953 having regard to the special circumstances of this class of cases. A copy of the notice of exemption to this effect was registered on the Federal Register of Legislative Instruments on 30 April 2007. The exemption is effective from 1 May 2007 and applies to payment summaries given on or after that date.

5. Entities making a PAYG withholding from a payment in the circumstance described in paragraphs 4 and 4A of this Determination are thereby only required to provide the recipient of the payment with the original payment summary in accordance with sections 16-155, 16-160 or 16-167 in Schedule 1 to the TAA 1953.

Commissioner of Taxation

9 May 2001

<i>Previously released:</i>	- TAA 1953 12-155
	- TAA 1953 12-160
Not previously issued in draft form.	- TAA 1953 12-165
	- TAA 1953 12-170
<i>Subject references:</i>	- TAA 1953 12-190
- Pay As You Go	- TAA 1953 12-210
- PAYG Withholding	- TAA 1953 12-215
- PAYG Payment Summaries	- TAA 1953 12-220
	- TAA 1953 12-225
<i>Legislative references:</i>	- TAA 1953 12-245
- TAA 1953 Schedule 1	- TAA 1953 12-250
- TAA 1953 Sch 1 Subdiv 12-B	- TAA 1953 12-255
- TAA 1953 Sch 1 12-55	- TAA 1953 12-260
- TAA 1953 Sch 1 12-60	- TAA 1953 12-280
- TAA 1953 Sch 1 Subdiv 12-C	- TAA 1953 12-285
- TAA 1953 Sch 1 12-85	- TAA 1953 16-155
- TAA 1953 Sch 1 Subdiv 12-D	- TAA 1953 16-160
- TAA 1953 12-140	- TAA 1953 16-167
- TAA 1953 12-145	- TAA 1953 16-180
- TAA 1953 12-150	

ATO references:

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