

## Payments to contractors

The rules for claiming deductions for payments to workers are changing from the, 1<sup>st</sup> July 2019.

If you pay someone as a contractor, but they are later found to be a common law employee then this will apply to you.

The Government has introduced new measures that deny tax deductions for payments if you don't comply with the PAYG withholding rules. This is where the contractor does not provide an ABN and the business does not withhold any amount of PAYG. These include payments:

- Salary, wages, commissions, bonuses or allowances to an employee
- directors' fees
- to a religious practitioner
- under a labour hire arrangement
- for a supply of services (except from supplies of goods and real property) where the contractor has not provided you with their ABN

### The tax deduction is only denied where

- no amount has been withheld at all; or
- no notification is made to the Commissioner

**Withholding or notifying the Commissioner of an incorrect amount will not trigger the loss of a tax deduction.**

New Law	Current Law
<p>The deduction (if any) will not be available if the entity making the payment has failed to comply with its obligations in relation to the payment to withhold and to notify the Commissioner.</p>	<p>An employer is generally entitled to a deduction for the payment of salary and wages.</p>
	<p>A company may deduct directors' fees paid to directors.</p>
	<p>An entity may be able to deduct a payment to a religious practitioner in certain circumstances.</p>
	<p>A labour hire business may deduct payments it makes to individuals employed through its labour hire agreements.</p>
	<p>An entity may be able to deduct an amount it pays to another entity for a supply it receives from the other entity.</p>

## **Non-cash benefits**

A Non-cash benefit is something you provide instead of paying cash, for example goods or services. In this case, you still need to report the PAYG tax to us in order for this to be classified as a compliant payment and allow you to claim a deduction.

## **Failure to withhold or report**

If you should have withheld PAYG tax from a payments but didn't, you will lose your deduction for that payment, unless you voluntarily tell the ATO before they tell you and commence an audit or other compliance activity. If you withheld PAYG tax from a payment but didn't, report the amount to the ATO you will lose your deduction for the payment unless you report the amount to them before they commence an audit or other compliance activity.

## **Penalties**

If you do not comply with these new PAYG withholding rules, you will lose your deduction for that payment and may face penalties that apply for failure to withhold and report amounts under the PAYG withholding system.

All Businesses who have contractors are strongly encouraged to review the changes and all payments made on which your workers are engaged to comply with these new withholding obligations.

All Businesses should also determine if a contractor is an employee and if payments have been made incorrectly, as the employer could be at risk for unpaid PAYG withholding and compulsory superannuation guarantee payments, the employer will be at risk of being denied a tax deduction for such payments if the withholding obligations are not complied with.

You can use the ATO Employee/contractor decision tool at [www.ato.gov.au](http://www.ato.gov.au) to determine if your contractors are employees.

For additional information on Payments to Contractors please talk to your accountant before or when you do your financial year-end tax return.