

7% Withholdings on Certain Contractors

Gross Income Tax Withholding Requirement for Construction Contractor Services

Under Chapter 85, P.L. 2006, and effective for all payments made on and after **January 1st, 2007**, all persons and businesses, other than governmental entities, homeowners, or tenants, making a payment for services rendered to unregistered, unincorporated contractors must deduct and withhold from the payment a tax equal to 7% of the contracted price.

The purpose of Chapter 85, P.L. 2006 is to ensure that the income taxes of resident and nonresident persons engaged in businesses are properly withheld and remitted to the State of New Jersey pending the filing of a New Jersey Gross Income Tax or Partnership return.

All persons and businesses include those that own real estate and contract with unregistered, unincorporated contractors for repair and construction services to buildings (rental properties, investment properties, etc.) not deemed as their principal residences.

For purposes of the new law:

"Contractor" means a person entering into a contract for services to construct, improve, alter, or repair a building, structure, or improvement to real property and includes a subcontractor, but shall not include professional services as defined in section 1 of P.L.1960, c.40 (C.17:16C-1).

"Unincorporated contractor" means an individual contractor or a contractor organized as a sole proprietorship, a partnership, or any other business form not taxed as a corporation for federal tax purposes.

Withholding on the remuneration is *not required* if the person making the payment has obtained from the person receiving the payment proof of the construction contractor's registration with the Division of Revenue, Department of Treasury. A **Business Registration Certificate** (BRC) serves as proof of a valid business registration with the Division of Revenue and should be retained by the person making the payment. The New Jersey Division of Revenue's website will generate an online, printable Business Registration Certificate.

The person making the payment should also provide the unregistered, unincorporated contractor with Federal Form 1099-MISC. If the payor is already an employer, they can utilize their regular Form 927/927-W to report and remit New Jersey income tax withheld from unregistered, unincorporated contractors. If the payor is not an existent employer, they will file the new **NJ-550*** Form. The year end requirement for both types of payors will be the new Schedule **NJ-W-3-UNC**; a reconciliation of income tax withheld. The reconciliation is due in February, 2008 and will be available later this year.

* *See Copy of Form NJ-550 on the last page*

The owner or lessor of real property to which construction or repair is being made is required to deduct and withhold tax under the new law and is also made liable for that

contractor's withholding from a subcontractor, or the subcontractor's withholding from a lower tier subcontractor on that contract. Failure to withhold and make payment to the Division of Taxation will result in the imposition of penalties currently provided for other failures to withhold income tax from employee pay.

The contractor, subcontractor or lower tier subcontractor may be excused from withholding if they have proof of registration with the Division of Revenue. Property owners also are excused from liability with respect to subcontractors if the primary contractor, with whom the owner has a contract, has provided proof of the primary contractor's registration with the Division of Revenue to the owner. With regard to liability, if the primary contractor has not provided proof of registration with the Division of Revenue, the property owner will avoid liability with respect to the primary contractor and subcontractors by withholding the 7% income tax on the contract price for the entire job, unless provided with proof that the subcontractors are registered with the Division of Revenue.

Obtaining a Business Registration Certificate Online

A Business Registration Certificate may be obtained online through the Division's website:


- Go online to www.njtaxation.org
- Click on **Electronic Services** on the left-hand side of the page
- Select [Business Registration and Information Services](#)
- Click on [On-Line Business Registration Certificate Service](#), found under **Other Information**

You will need a combination of either the FEIN# or Corporate# and the name control of the business. The name control is the first 4 characters of the business name. See below for a sample of the link:

| | |
|--|----------------------|
| <p>Name Control: (required*) Enter the first four characters of your business name or trade name. If the business name is less than 4 characters, finish the field with hyphens (-). Do NOT enter spaces, slashes or any other special characters except an ampersand (&) or the hyphen (-).</p> | <input type="text"/> |
| <p>Taxpayer ID (Federal Employer ID Number): Your Taxpayer Identification (FEIN) must be twelve digits long. Enter the first nine digits followed by three zeroes (000), or if you have a three digit suffix, enter the suffix after the first nine digits. Do NOT enter spaces, dashes or slashes.</p> | <input type="text"/> |
| <p>Business Entity ID: This is the ten-digit ID assigned to all corporations, LLC's and limited partnerships. Enter all ten digits, including leading zeros. Do NOT enter spaces, dashes or slashes. If your business is a General Partnership or Proprietorship, this search field is not applicable.</p> | <input type="text"/> |
| <p>Certificate Number: This number, sometimes called the "Sequence Number", is the unique ID assigned to each business registration certificate. It may prove useful for authenticating a previously issued business registration certificate. The Certificate Number must be seven digits long. Do NOT enter spaces, dashes or slashes. This option will only validate a previously issued Business Registration Certificate, it will not generate a new certificate.</p> | <input type="text"/> |

**Note: Sole Proprietors and Partnerships are registered under the owner(s)' name and will not be found under their trade name. The first 4 letters of the owners' last name should be used as the name control.*

For businesses that have completed Form NJ-REG, a BRC will be generated:

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|  | STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE |
| Taxpayer Name: | Imaginary Builders LLC |
| Trade Name: | |
| Address: | 121 Job Site Ave Flatbrookville, NJ 12345 |
| Certificate Number: | 1223445 |
| Effective Date: | 10/17/2001 |
| Date of Issuance: | June 19, 2007 |
| For Office Use Only: | |
| | 20070619120440819 |

A Business Registration Certificate (BRC) must be collected from the contractor in order to avoid the requirement to withhold 7% of the contract amount. The BRC should be kept in the payor's records along with the invoice provided by the contractor.