



TAX ALERT

UPDATE ON NEW JERSEY WITHHOLDING REQUIREMENT FOR CONTRACTORS

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This tax alert is a follow-up to “Taxing Matters for your Association,” an article published in the Winter 2007 edition of W&G’s *Community Property Advisor* newsletter.

Beginning January 1, 2007, the State of New Jersey now requires that income taxes be withheld from payments made to any unregistered, unincorporated contractors. If tax withholding is required, seven percent of the gross payment to the contractor should be withheld and remitted to the State. For withholding purposes, contractors are defined by New Jersey as:

“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.”

Withholding will not be required if the contractor is a corporation or presents proof of registration in the form of a Business Registration Certificate. One way to tell if the contractor is a corporation is if they have “Corp.” or “Inc.” at the end of the the business’ name. If they are not incorporated, the Business Registration Certificate is the only document you can rely on to be safe from potential penalties for failing to withhold the appropriate tax. If the contractor is registered, they can print the Business Registration Certificate from the New Jersey Division of Revenue’s website (<http://www.state.nj.us/treasury/revenue/busregcert.htm>).

If the contractor is not registered, they may register with New Jersey using Form NJ-REG or Form NJ-Reg-A depending upon what other business tax and employer obligations they have. These forms can be filed with the State using the New Jersey Division of Revenue’s website.

If withholding is required for any payments made, you can remit the withholding to New Jersey using one of two methods permitted by the State. The first method is to include the tax withheld on Form 927 if you already have payroll and are required to file this form quarterly. The second method is to file the newly created Form NJ-550 monthly. For your convenience, a copy of Form NJ-550 along with the instructions follows this tax alert. The tax withheld will also be disclosed to New Jersey on Form NJ-W-3-UNC annually. This form has not been released by the State at the time this alert was prepared.

The above information is general in nature and does not include all of the details or exceptions to this new legislation. Please contact your Wilkin & Guttenplan, P.C. advisor to discuss your specific situation.

Any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

NJ-550

(1/07)

STATE OF NEW JERSEY -DIVISION OF TAXATION

Monthly Return of Withholding from Unregistered Unincorporated Contractors (Required Pursuant to N.J.S.A. 54A:7-1.2 effective January 1, 2007)

New Jersey Taxpayer ID - - /	Taxpayer Name	Trade Name	
Withholding Month/Year /	Mailing Name		
This return and payment is due by the 15th day of the month following the month of withholding.	Mailing Address (number and street)		
	Mailing City	State	Zip Code

Line 1. Number of Unregistered Unincorporated Contractors Reported _____

Line 2. Gross Amount Paid Subject to Withholding (from Schedule A below) \$ _____.

Line 3. Total Amount Withheld (Multiply Line 2 by .07) \$ _____.

Make Check Payable and State of New Jersey, Gross Income Tax
Mail Return with Payment to: PO Box 629
Trenton, NJ 08646-0629

Subject to the penalties of perjury, I hereby certify that this return, to the best of my knowledge and belief, is a true and correct statement.

Taxpayer Signature Title Date Telephone

SCHEDULE A - Summary of Unregistered Unincorporated Contractors Subject to Withholding (MUST BE COMPLETED)

Unregistered Unincorporated Contractor Social Security Number or FEIN	Contractor Name (Last, First, MI) (Please Print)	Gross Amount Paid	Amount Withheld
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
Total Gross Amount Paid Enter total here and on Line 2. Gross Amount Paid Subject to Withholding above.		\$	
Total Amount Withheld Enter total here. Amount must agree with Line 3 Total Amount Withheld, calculated above.			\$

SEE INSTRUCTIONS ON REVERSE SIDE

Effective January 1, 2007, entities making payments to unregistered unincorporated contractors for work performed in New Jersey are required to deduct and withhold tax from that compensation from any contractor who does not provide proof of registration (a Business Registration Certificate, Form BRC) from the New Jersey Division of Revenue.

The BRC may be obtained by the contractor by going online at: https://www1.state.nj.us/TYTR_BRC/jsp/BRCLLoginJsp.jsp

Unregistered unincorporated contractors with no business tax or employer obligations may register using Form NJ-REG-A instead of Form NJ-REG in order to obtain the Business Registration Certificate with the New Jersey Division of Revenue by going online at: http://www.state.nj.us/treasury/revenue/pdf/forms/reg_a.pdf

Individuals who have created and are operating as a business entity (e.g. LLC) and wish to register and obtain a Business Registration Certificate, may not use Form REG-A. They may submit Form NJ-REG online: https://www.state.nj.us/cgi-bin/treasury/taxation/revenue/dcr/reg/sos_dcrnew01_page1.cgi to register in order to obtain a Business Registration Certificate.

NJ-550 Filing and Payment

Filing and payment of amount withheld is required for each calendar month, in which payment is being made to unincorporated contractors not providing proof of registration described above. Form NJ-550 and associated payment, are due on or before the 15th day of the month following the close of the calendar month in which the payment was made.

General Instructions

Withholding Month/Year: Enter reporting month and year of any and all withholdings from payments to unregistered, unincorporated contractors. Example "02/2007" for reporting withholdings made during February 2007.

NJ Taxpayer ID: Enter your NJ Taxpayer Identification Number.

Taxpayer Name: Enter your taxpayer name.

Trade Name: Enter your trade name.

Mailing Name: Enter your mailing name.

Mailing Address: Enter your mailing street address.

Mailing City, State, Zip: Enter your mailing city, state, and zip code.

Instructions for Completing Schedule A - Summary of Unregistered Unincorporated Contractors Subject to Withholding

This section must be completed prior to NJ-550 return completion. Report the Social Security Number or FEIN, Contractor Name, Gross Amount Paid and Amount Withheld (7% required) for each unregistered unincorporated contractor paid during the reporting month. Summarize Gross Amount Paid (before withholding) Amounts and Amounts Withheld. Then complete Lines 1-3 of the NJ-550.

Line Item Instructions

- 1. Number of Unregistered Unincorporated Contractors Reported:** Enter the number of Unincorporated Contractors to whom payments were made during the monthly period which is being reported on this Monthly Return of Withholding from Unregistered Unincorporated Contractors.
- 2. Gross Amount Paid Subject to Withholding:** Enter the gross total amounts paid to unincorporated contractors from Line 1.
- 3. Total Amount Withheld:** Multiply the Gross Amount Paid Subject to Withholding (from Line 2) by .07. Place the resulting amount on Line 3 of this return.

Year End Requirements

Copies of 1099-MISC from payments made to unregistered unincorporated contractors, reporting the New Jersey Gross Income Tax Withheld in Box 16, State Tax Withheld, together with Schedule NJ-W-3-UNC, a reconciliation of income tax withheld, must be mailed to:

State of NJ - Gross income Tax
PO Box 629

Trenton, NJ 08646-0629

in February of the year following the reporting year.