

27th March 2006

Don O'Connor
The Business Regulation Forum
c/o Forfás
Wilton Park House
Wilton Place
Dublin 2

Dear Don,

Re: Withholding Tax on Professional Fees

This provision was introduced I think in the 1980s. Its purpose then was to address tax evasion by professionals (and only professionals) providing services to the State. It involves withholding by the client of a proportion of the fee payable, which is instead credited to the Revenue Commissioners, and which can be re-claimed when the service provider demonstrates that they are fully tax compliant. The money is reimbursed by the Revenue Commissioners.

This tax seems at this stage to be an unnecessary and unfair regulatory burden. This is so for five reasons:

- (a) any company or individual providing services to the public sector must nowadays have a Tax Clearance Certificate (i.e. be tax compliant) in order to obtain a contract in the first place, and in some cases even to present a proposal. Consequently, if this latter regulation is properly implemented, it is impossible for a professional who is not tax compliant to earn fee income from the State in the first place, so that withholding tax is an unnecessary second-line protection;
- (b) it involves negative cash flow for the service provider, since there is a lag between the time that the income is withheld and when it is eventually recovered, typically a month or six weeks. However, given that most of the fees must presumably be subsequently reimbursed, there is no overall ultimate net gain to the Exchequer;
- (c) the system involves an administrative burden on three parties, the public sector organisation who must administer the process of withholding the fee, the service provider who then has to go through the bureaucratic burden of reclaiming the fees from the Revenue Commissioners, and the Revenue Commissioners who also have to administer the system;
- (d) Revenue have greatly speeded up the time-gap between withholding the tax and its being repaid. However, ironically this means they gain less from it even as cash-flow, simply highlighting its pointless nature;

- (e) it applies only to “professional” fees, and it is not levied on suppliers of products or on other services such as construction. There is no reason to suppose professionals are any less tax compliant than such other parts of the economy.

This is therefore a very concrete instance where an out-dated, unnecessary regulation could be removed with no net cost to the Exchequer.

I hope this is of interest to the Forum.

Regards,

Dr Jim Fitzpatrick
MANAGING DIRECTOR