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## STATEMENT OF TAX RECORD FOR BUSINESSES

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Businesses wanting to participate in tendering for Commonwealth government contracts need to be aware that contracts over a certain amount require a statement of tax record to be included with the tender submission, and the statement will need to be valid at the time of tender closing. The statement of tax record is a just statement that confirms the business' engagement with the tax system is satisfactory and will apply to all contracts that have an estimated total value of over \$4m including GST.

For businesses with more than 4 years of Australian tax history, the criteria for a satisfactory statement of tax record consists of being up to date with registrations requirements (ABN, GST, TFN), having lodged at least 90% for each lodgment type of obligations (eg tax returns, BASs, FBT returns) due in the last 4 years of operation (from the date of request of statement), and having paid any undisputed debt of \$10,000 or more by the due date, or with a payment plan in place. According to the ATO, reasonable delays in lodgments due to extensions agreed to, formal objections, reviews or appeals will not affect a satisfactory STR.

New businesses with less than 4 years of Australian tax history will need to meet additional conditions to obtain a satisfactory statement of tax record, including correctly answering 3 supplementary statements relating to:

- being a non-resident with no tax record or a tax record of less than 4 years in Australia;
- compliance and payment of Australian and foreign tax obligations; and
- no tax-related convictions in the last 4 years for both Australian and foreign entities.

The requirement to obtain a statement of tax record applies to businesses, prime contractors, or suppliers involved in a panel arrangement, where the total value of orders under the arrangement is collectively over \$4m. First-tier subcontractors who work directly for a prime contractor undertaking work individually valued at over \$4m including GST will also be required to have a satisfactory tax record.

Depending on the structure of the business involved, differing requirements apply. For example, if the business involved in the tendering process is a partnership, the partnership and each partner directly involved with delivering the contract must request a statement of tax record. This requirement also applies to any new partners that join with a reasonable grace period available for obtaining a statement.

Similarly for joint ventures, each party to a joint venture must request a statement of tax record from the ATO. The joint venture operator must also request a statement even if they are not a participant of the joint venture. For trusts, both the trust and trustee (including corporate trustees) must request a statement.

In relation to tax consolidated groups, if a subsidiary is tendering for an applicable government contract, both the subsidiary and the head company must request a statement. However, if a tax consolidated or MEC head company itself is tendering, there is no need for its subsidiaries to apply for a statement. For members of GST groups, where a member of a GST group is tendering, the group representative and the group member must both request a statement.

The simplest way to apply for a statement of tax record is through online services for businesses, and the ATO will usually issue the statement within 4 business days. Statements of tax record issued will be valid for 12 months from the time of issue for businesses with an Australian tax record of 4 or more years, and 6 months from the time of issue for businesses with an Australian tax record of less than 4 years.

It is important to note that the statement of tax record is not just crucial for the tender, businesses that win the tender may be required to provide updated statements during the life of the contract depending on the specified terms. To avoid any unnecessary bureaucracy, businesses need to be aware and stay on top of their tax obligations for the duration of potential contract period.

## **CONTACT**

If you have any queries, please feel free to contact us.

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