

INFORMATION FOR PRINCIPALS

This factsheet provides information for Principals on the QBCC trust account requirements for building and construction projects in Queensland.

You may be impacted if:

- you are a private sector client or developer
- you have engaged a head contractor for a construction project in QLD.

Current projects impacted:

- projects valued at \$10 million or more
- for residential – the project includes 3 or more living units.

Future projects impacted –

- from 1 March 2025 any building work valued at \$3 million or more
- from 1 October 2025 – any building work valued at \$1 million or more.

WHAT ARE TRUST ACCOUNTS?

There are mandatory trust account requirements for certain building and construction projects in QLD.

The requirements impact both Government and private sector projects and various parties within the contractual chain.

There are two types of trusts:



**PROJECT
TRUST ACCOUNT**

Project Trust Accounts (PTAs)– used by the head contractor to receive payments from the principal and pay beneficiaries (subcontractors and other consultants that work on the project).



**RETENTION
TRUST ACCOUNT**

Retention Trust Accounts (RTAs)– used by parties who are withholding cash retentions on eligible projects.

WHY TRUST ACCOUNTS?

The trust account requirements are designed to improve transparency and rigour regarding payment within the construction industry and improve the likelihood that parties will be paid for the work that they do. This includes, and is especially important, in the case of an insolvency.



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HOW AM I IMPACTED?

As a principal, the trust account requirements impact how you pay parties engaged, your management of cash retentions withheld and your reporting obligations to the QBCC.

WHO MONITORS COMPLIANCE?

The trust account requirements are governed by the Queensland Building and Construction Commission (QBCC). They monitor industry compliance and may take action against parties that do not meet their obligations.

WHAT ARE MY OBLIGATIONS AS A PRINCIPAL?

As a principal, you must ensure that:

- progress payments to the head contractor are transferred directly into the relevant Project Trust Account (PTA).
- any cash retentions withheld from payment to the head contractor are transferred and held in a Retention Trust Account (RTA); and
- you notify the QBCC if you reasonably suspect or know that the head contractor has not opened a PTA when one is required.

Note: Government entities are exempt from the retention trust requirements however they would still need to be aware of the PTA requirements that head contractors are required to comply with.

WHEN DO I NEED A TRUST ACCOUNT?

Principals may need an RTA, but they will never require a PTA.

A Retention Trust Account is only required if:

- cash retentions are used as a form of security under the contract
AND
- it's an eligible project (meaning that the head contractor has or is required to use a Project Trust Account for the project).

CURRENTLY	1 MARCH 2025	1 OCTOBER 2025
State Gov and HHS projects \$1mil or more		
Local Gov \$10mil or more	\$3mil or more	\$1mil or more
Private sector \$10mil or more	\$3mil or more	\$1mil or more

NOTE: there are exemptions for small scale residential projects, short term contracts and civil and mining projects.



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HOW DO I KNOW IF THE HEAD CONTRACTOR HAS A PROJECT TRUST ACCOUNT?

You would have received a notification from the head contractor of the PTA and the relevant account details to make payment into.

If you haven't received a notification from the head contractor, you can check the QBCC's online register of trust accounts - <https://my.qbcc.qld.gov.au/myQBCC/s/trust-account-register>.

TIMEFRAMES FOR OPENING?

A retention trust account must be established BEFORE any cash retention amounts are withheld from payment.

It takes time to open an account, so it's recommended that you start this process once the head contract has been entered into, and you know a retention trust is required.

HOW MANY ACCOUNTS DO I NEED?

You can use the one RTA to hold retention amounts across all eligible projects.

Some businesses are choosing to set up a separate retention trust account per project however this increases the administration and auditing costs to a business to maintain multiple accounts.

WHAT DO I NEED TO DO TO BE COMPLIANT IF I HAVE AN RTA?

As a retention trust trustee, you are required to:

1. Open a Retention Trust Account (RTA) at an approved financial institution.
2. Deposit all cash retention amounts withheld from payment into the RTA at the time of withholding.
3. Leave the funds in the account until they are due for release (on practical completion and/or at the end of the defects liability period).
4. Provide notifications to relevant parties of the RTA (including the QBCC and beneficiaries of the trust).
5. Keep proper trust records for the RTA; and
6. Organise an annual audit of the RTA by an external auditor (please note that this requirement has been paused until 1 July 2025).



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WHAT ARE THE SPECIFIC RULES FOR RETENTION FUNDS AND MANAGEMENT OF THE TRUST?

There are rules that must be followed when dealing with retention amounts. It's critical that these are followed as the accounts are audited and there are significant consequences for non-compliance.

1. Retention amounts withheld must be transferred into the RTA at the time of withholding the amount from payment - if GST applies, the GST payable on release of retentions must be transferred into the RTA at the same time.
2. Retention amounts withheld must remain in the RTA until payable to the beneficiary.
3. Monthly reconciliations must be conducted and records of these reconciliations kept.
4. Interest earned on funds within the account can only be withdrawn once a year.
5. Retention trust funds cannot be invested.

WHAT TO LOOK FOR IN SOFTWARE THAT WILL ASSIST WITH THE MANAGEMENT OF A TRUST?

The management and administration of trust accounts can be burdensome, however there are some software solutions emerging which can help.

When considering software to assist, you want to make sure that it has:

1. The ability to pay to different bank accounts for the one head contractor/client
2. A separate ledger for the RTA – able to record changes to the beneficial interest in amounts in the trust (not just tracking the actual transfer of funds in and out of the account)
3. Specific detail included on the payment notifications (remittance advice notices) to track the balance of retentions withheld and details of where funds have been transferred to; and
4. Additional reporting functionality to assist with tracking trust funds and entitlements and reconciling accounts.

WHAT ACTION CAN BE TAKEN AGAINST ME IF I'M NON-COMPLIANT?

As a principal, the QBCC may issue a fine (Penalty Infringement Notice (PIN)) or prosecute for more serious offences. If you are a Principal that holds a QBCC licence, the QBCC may also choose to impose conditions, suspend or cancel your licence due to non-compliance.

There are significant fines and potential jail time for non-compliance. The QBCC may issue an immediate fine of up to \$16,130 for a company, otherwise through prosecution, a company may be fined up to \$80,650 or up to 2 years imprisonment for company directors.



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CAN I DELEGATE MY RESPONSIBILITIES AS TRUSTEE?

You can delegate your powers as a trustee however you will ultimately remain responsible for the trust.

Here are some things to consider before you do:

- you will remain liable for all acts and defaults of the delegate as the trustee of the account;
- the person must be a Queensland resident;
- any costs associated with the delegation of power cannot be recovered from trust funds or beneficiaries; and
- legal advice should be considered before appointing a delegate.

HOW DO I DELEGATE MY POWERS AS TRUSTEE?

Capture the delegation in writing and clearly articulate what powers are authorised, for how long, any limitations and how the delegation is to be revoked. It's recommended that a formal Delegation of Authority Form is used. Any documentation about the delegation must be kept for 7 years.

WHAT ASSISTANCE CAN BUILDING TRUSTS PROVIDE?

We're here to help you prepare for the impact that trust accounts will have on your business. We can help you to assess and update your systems and processes, upskill and train your staff or provide ongoing advice and support for the set up and administration of a trust account.

WANT TO KNOW MORE?

Visit <https://buildingtrusts.com.au/>

Email laura@buildingtrusts.com.au

Or call 0481 194 000.

