



Employment Agency Contracts – Declaration by Exempt Clients

State Revenue Office
Department of Treasury and Finance

About the declaration

- An employment agency contract is a contract under which a person (employment agent) procures the services of another person (service provider) for a client of the employment agent. Such a contract could be formal or informal and could be expressly made or implied;
- Division 8 of Part 3 of the [Payroll Tax Act 2008](#) imposes payroll tax on wages paid by employment agents to staff on-hired under employment agency contracts;
- This declaration is to be made by a client who is exempt under Part 4 (other than Division 4 or 5 of that Part, Section 50 or clause 5 of Schedule 2) of the Act – see more information on page three;
- The employment agent is liable for payroll tax on all payments made to the service provider unless this declaration has been received from the client (section 40(2) of the Act);
- The employment agent must keep this declaration for five (5) years and be able to produce it if requested by the State Revenue Office;
- If the Australian Taxation Office has granted an income tax exemption to the client, it does not follow that the client is exempt under Part 4 of the Payroll Tax Act. Please read the information on page three and [Revenue Ruling PTA026 – Employment Agency Contracts - Declaration by Exempt Clients](#), at www.sro.tas.gov.au, before completing this declaration;
- Under the anti-avoidance provisions in section 42 of the Payroll Tax Act, the Commissioner of State Revenue may impose a payroll tax liability on a client of an employment agent should the client make an incorrect declaration of exemption to the employment agent; and
- The exemption does **not** apply where the client does not pay payroll tax solely because their wages (that is, the wages paid by the client) are below the payroll tax threshold.

Go to the next page for the schedule of employers exempt from payroll tax.

Part 4 of the Payroll Tax Act 2008 – employers exempt from payroll tax.

Non-profit organisations

1. Wages are exempt wages if they are paid or payable by any of the following:
 - a) a religious institution;
 - b) a public benevolent institution (but not including an instrumentality of the State); or
 - c) a non-profit organisation having as its sole or dominant purpose a charitable, benevolent, philanthropic or patriotic purpose (but not including a school, an educational institution, an educational company or a State instrumentality).
2. The wages must be paid or payable for work of a kind ordinarily performed in connection with the religious, charitable, benevolent, philanthropic or patriotic purposes of the institution or body and to a person engaged exclusively in that kind of work.
3. An educational company is a company in which an educational institution has a controlling interest, and that provides, promotes or supports the educational services of that institution. An educational institution has a controlling interest in an educational company if:
 - a) members of the board of management of the company who are entitled to exercise a majority in voting power at meetings of the board of management are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the educational institution; or
 - b) the educational institution may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, more than 50 per cent of the voting power attached to voting shares, or any class of voting shares, issued by the company; or
 - c) the educational institution has power to appoint more than 50 per cent of the members of the board of management of the company.
4. An educational institution means an entity that provides education above secondary level.

Schools, school councils and educational services

Wages are exempt wages if they are paid or payable by a school or college (other than a technical school or a technical college) that:

- a) provides education at or below, but not above, the secondary level of education; and
- b) is carried on by a body corporate, society or association otherwise than for the purpose of profit or gain to the individual members of the body corporate, society or association and is not carried on by or on behalf of the State of Tasmania.

Health care service providers

Wages paid or payable by a health care service provider that is a public hospital or a non-profit hospital are exempt wages. The wages must be paid or payable for work of a kind ordinarily performed in connection with the conduct of a health care service provider, and to a person engaged exclusively in that kind of work.

Other government and defence

Wages are exempt if paid or payable by:

- the Governor of a State;
- the Commonwealth War Graves Commission;
- to members of his or her official staff by a consular or other representative of any country in Australia (other than a diplomatic representative),
- to members of his or her official staff by a Trade Commissioner representing any other part of the Commonwealth of Nations in Australia;
- and by the Australian–American Fulbright Commission.

Declaration

Legal name of employment agent

Date of contract with client

Legal name of client

Address of client

State

Postcode

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Client ABN

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I, _____ being an authorised officer of _____
Name of declarant Legal name of client

declare that _____
Legal name of client

is exempt from payroll tax, and the service provider(s) is/are to be used for activities that are also exempt under Part 4 of the *Payroll Tax Act 2008*.

Signature of declarant

_____/_____
Date

Personal Information Protection Statement

Personal information is collected by the Commissioner of State Revenue and used for the purpose of administering the [Taxation Administration Act 1997](#) and the [Payroll Tax Act 2008](#). You are required to provide this information under the relevant provisions of those Acts.

Your personal information may only be disclosed in accordance with the provision of the Taxation Act, and will be managed in accordance with the [Personal Information Protection Act 2004](#). You may access your personal information on request to the Commissioner of State Revenue. A fee may be charged for this service.