

Revenue Ruling 2008

Public Ruling

Ruling Number	:	PTA022
Title	:	Contractors – Services Not Ordinarily Required
Tax Line	:	Payroll Tax
Legislative Reference	:	<i>Payroll Tax Act 2008</i>
Previous Ruling	:	PUB-PT-2008-23
Date of Ruling	:	1 July 2008
Attachments	:	-

Preamble

The *Payroll Tax Act 2008* (the Act), which commenced on 1 July 2008, rewrites the *Pay-roll Tax Act 1971* and harmonises the payroll tax legislation in Victoria, NSW and Tasmania.

Parties to a 'relevant contract' are deemed to be employers and employees (sections 33 and 34 of the Act) and payments made under a contract are deemed to be wages (section 35 of the Act). Deemed wages are subject to payroll tax under section 36 of the Act.

While most contracts for the provision of services come within the meaning of 'relevant contract' under section 32 of the Act, certain types of contracts are specifically excluded from the definition of 'relevant contract'. One of the exclusions is a contract for services that are not ordinarily required by the principal, and the contractor providing the services ordinarily renders services of that kind to the public generally (section 32(2)(b)(i) of the Act).

The purpose of this Revenue Ruling is to explain the criteria that must be met for a contract to be excluded under section 32(2)(b)(i) of the Act.

Ruling

From time to time, businesses may require services that are not associated with their mainstream business activities. As these services are required so infrequently, it would be more practical for businesses to engage contractors instead of permanent staff to perform these services when the need arises.

Contracts to provide these services by contractors who ordinarily render such services to the general public are excluded from the definition of 'relevant contract' by section 32(2)(b)(i) of the Act. Consequently, payments made under such contracts would not be subject to payroll tax.

Revenue Ruling 2008

For the exemption in section 32(2)(b)(i) of the Act to apply, the following criteria must be satisfied:

- a) the services provided by the contractor must not ordinarily be required by the principal (eg services provided by painters and decorators engaged by a bank to paint and decorate its office); and
- b) the contractor must ordinarily provide the services in question to the public generally. To satisfy this criterion, the contractor would need to have derived less than 40 per cent of gross trading income from the principal during the relevant financial year.

For the purposes of this Revenue Ruling, gross trading income is the gross income earned by the contractor in the conduct of the contractor's business excluding any investment income or wages.

Where the above criteria are not satisfied but you believe that you are entitled to this exemption, you may apply for a determination to the Commissioner of State Revenue.

This Revenue Ruling is effective from 1 July 2008.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling.

Enquiries about this Revenue Ruling should be directed to the Research, Analysis and Legislative Review Section on telephone 03 6166 4400 or e-mail at revenuereview@treasury.tas.gov.au. Copies of this ruling may be obtained from our website at www.sro.tas.gov.au.

All rulings must be read subject to Revenue Ruling PUB-GEN-2008-29, "Explanation and status of Revenue Rulings".



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