

# Revenue Ruling

Payroll Tax Act 2009

PTA022

## CONTRACTORS SERVICES NOT ORDINARILY REQUIRED

### Preamble

The *Payroll Tax Act 2009* (the "Act"), which commenced on 1 July 2009, rewrote and repealed the *Pay-roll Tax Act 1971* and provides fully harmonised legislation with New South Wales, Victoria, Tasmania and Northern Territory.

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 designated person (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.

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 (e.g. 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% 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 Taxation.

### Further Information

Further information can be obtained from RevenueSA.

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### History

This Revenue Ruling is effective from 1 July 2009.

This is the first Revenue Ruling issued on this topic.

COMMISSIONER OF STATE TAXATION

1 July 2009