

Revenue Ruling

Payroll Tax Act 2009

PTA033

CONTRACTORS SERVICES ANCILLARY TO THE SUPPLY OF GOODS

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The *Payroll Tax Act 2009* (the "Act"), which commenced on 1 July 2009, rewrote and repealed the *Pay-roll Tax Act 1971* and provides fully harmonised legislation with New South Wales, Victoria, Tasmania and Northern Territory.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 taken 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 where the provision of labour is ancillary to the provision of materials and/or equipment (**Section 32(2)(a)** of the Act).

The purpose of this Revenue Ruling is to explain how **Section 32(2)(a)** of the Act would apply to exclude a contract from the definition of 'relevant contract'.

Ruling

Where the amount relating to the provision of materials and/or equipment under a contract is more than 50% of the total contract amount, the provision of labour under the same contract is considered ancillary. There must be evidence to substantiate that the provision of materials and/or equipment is the principal object of the contract.

The amount attributable to materials and/or equipment must be reasonable, having regard to the type of services provided. In determining what is a reasonable amount, due regard must be given to the current market prices for such materials and equipment. This exemption does not apply if the materials and/or equipment are purchased from the principal or any member of a group (within the meaning of **Part 5** of the Act) to which the principal belongs.

The principal may apply to the Commissioner of State Taxation for a determination if:

- ▶ the 50% criterion is not satisfied; and/or
- ▶ the materials and/or equipment were bought from the principal (or a member of a group to which the principal belongs) at arms' length and the principal believes that the exemption should apply.

Alternatively, where the 50% criterion is not satisfied, the principal may be entitled to a deduction depending on the profession of the contractor (**Revenue Ruling PTA018**).

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