

Payroll Tax Act 2009

Employment Agency Contracts - Declaration by Exempt Client

Explanatory notes:

- 1) **Division 8, Part 3** of the *Payroll Tax Act 2009* (the "Act") imposes payroll tax on wages paid by employment agents to staff on-hired under employment agency contracts.
- 2) 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.
- 3) 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).
- 4) This declaration is to be made by the client where the wages paid to the service provider would have been exempt under the **relevant provisions** if they had been paid directly by the client to the service provider as an employee. The relevant provisions are **Part 4** (other than **Division 4 or 5** of that Part or **Section 50** or under **Part 3 of Schedule 2** (other than Clause 17)) of the Act – see overleaf. If the client has received an income tax exemption granted by the Australian Taxation Office, this does not necessarily mean that the client is exempt under **Part 4** of the Act. Please read the information overleaf and **Revenue Ruling PTA026** carefully before completing this form.
- 5) The employment agent must keep this declaration for 5 years and be able to readily produce it upon request by RevenueSA.
- 6) Under the anti-avoidance provisions in **Section 42** of the Act, the Commissioner of State Taxation may impose a payroll tax liability on a client of an employment agent if the client makes an incorrect declaration of exemption to the employment agent.
- 7) The exemption does not apply where the client does not pay payroll tax merely because their (the clients) wages are below the payroll tax threshold.

Legal name of employment agent

Date of contract with client

D	D	M	M	Y	Y	Y	Y
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Legal name of the client

Address of client

Address	State	Postcode
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Client's ABN

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I,

, being an authorised officer of

the wages paid to the service provider would have been exempt from payroll tax under **Part 4** (other than **Division 4 or 5** of that part, **Section 50** or under **Part 3 of Schedule 2** (other than Clause 17) of the *Payroll Tax Act 2009* if the service provider had been paid directly by the above named client as an employee.

NOTICE OF CONSENT (This consent is voluntary and is only to be used to verify your payroll tax exempt status).

I agree to allow RevenueSA to provide the above named employment agent with information about our payroll tax exempt status for confirmation purposes.

Signature

Date

D	D	M	M	Y	Y	Y	Y
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Further Information

Postal Commissioner of State Taxation
RevenueSA
GPO Box 1353
ADELAIDE SA 5001

Website www.revenuesa.sa.gov.au
PRT_AREG_0412

Telephone (08) 8204 9880
Facsimile (08) 8226 3805
Email payrolltax@sa.gov.au

Part 4 of the *Payroll Tax Act 2009* provides that wages paid or payable by certain types of employer are exempt from payroll tax. The following employers are exempt for the purposes of this declaration.

Non-profit organisations

- ▶ Wages are exempt wages if they are paid or payable by any of the following:
 - a religious institution;
 - a public benevolent institution (but not including an instrumentality of the State of South Australia); or
 - a non-profit organisation having as its sole or dominant purpose a charitable purpose (but not including a school, an educational institution, an educational company or a state instrumentality).
- ▶ The wages must be paid or payable:
 - for work of a kind ordinarily performed in connection with the religious, charitable or benevolent purposes of the institution or body; and
 - to a person engaged exclusively in that kind of work.
- ▶ 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:
 - 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;
 - the educational institution may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, more than 50% of the voting power attached to voting shares, or any class of voting shares, issued by the company, or
 - the educational institution has power to appoint more than 50% of the members of the board of management of the company.
- ▶ An educational institution means an entity that provides education above secondary level.

Schools & Educational Services

- ▶ Wages are exempt wages if they are paid or payable by any of the following:
 - a school or college that:
 - 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 South Australia; and
 - provides education at or below, but not above, the secondary level;
 - a University College affiliated with the University of Adelaide or the Flinders University of South Australia
- ▶ The wages must be paid or payable:
 - for work of a kind ordinarily performed in connection with the conduct of schools or colleges providing education of that kind; and
 - to a person engaged exclusively in that kind of work.

Kindergartens & Child Care Centres

- ▶ Wages are exempt wages if they are paid or payable by any of the following:
 - an employer who conducts a kindergarten otherwise than for the purpose of profit or gain; or
 - by a child care centre that is an eligible organisation within the meaning of the *Child Care Act 1972* of the Commonwealth.
- ▶ The wages must be paid or payable:
 - for work of a kind ordinarily performed in connection with the conduct of the kindergarten or child care centre; and
 - to a person engaged exclusively in that kind of work.

Hospitals

- ▶ Wages are exempt wages if they are paid or payable by:
 - a public hospital; or
 - a non-profit hospital carried on by a society or association (otherwise than for the purpose of profit or gain to the individual members of the society or association).
- ▶ The wages must be paid or payable:
 - for work of a kind ordinarily performed in connection with the conduct of hospitals; and
 - to a person engaged exclusively in that kind of work.

Health Service Providers & Family Planning

- ▶ Wages are exempt wages if they are paid or payable by any of the following:
 - a health service provider; or
 - the Sexual Health Information Networking and Education (SHINE).
- ▶ A health service provider is:
 - a service designed to promote health;
 - a therapeutic or other service designed to cure, alleviate, or afford protection against, any mental or physical illness, abnormality or disability;
 - a paramedical or ambulance service;
 - the care of, or assistance to, sick or disabled persons at their place of residence; or
 - a prescribed service.
- ▶ The wages must be paid or payable:
 - for work of a kind ordinarily performed in connection with a health service provider or SHINE; and
 - to a person engaged exclusively in that kind of work.

Local Government

- ▶ Wages are exempt wages if they are paid or payable by a council.
- ▶ The exemption for the above local government organisations does not apply to wages paid or payable for or in connection with:
 - the supply of electricity or gas;
 - water supply;
 - sewerage;
 - the conduct of abattoirs, public markets, parking stations, cemeteries or crematoria, hostels, public transport or an activity prescribed by the regulations; or
 - the construction of any buildings or works, or the installation of plant, machinery or equipment for use in any of the above activities.

Other government and defence

- ▶ Wages are exempt wages if paid or payable:
 - by the Governor of a State;
 - the Defence Force of the Commonwealth;
 - the armed forces of any part of the Commonwealth of Nations;
 - 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; or
 - by the Australian–American Fulbright Commission.