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Public Ruling

Payroll Tax Act—Harmonised: CONTRACTORS – LABOUR AND NON- LABOUR COMPONENTS

A Public Ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. The *Pay-roll Tax (Harmonisation) Amendment Act 2008* amended the *Payroll Tax Act 1971* (the Payroll Tax Act) with effect from 1 July 2008 to harmonise certain aspects of Queensland's payroll tax system with the systems of other jurisdictions.
2. Parties to a 'relevant contract' are deemed to be employers and employees¹ and payments made under such a contract are deemed to be wages.² Deemed wages are subject to payroll tax under s.13F of the Payroll Tax Act.
3. While most contracts for the provision of services come within the meaning of 'relevant contract' under s.13B of the Payroll Tax Act, certain types of contracts are specifically excluded from the definition of 'relevant contract'. Where none of the exclusions apply, s.13E(5) of the Payroll Tax Act allows the Commissioner of State Revenue (the Commissioner) to decide the amount which can be deducted from the payments made under the contract. This amount relates to the non-labour component where the contractor provides equipment and/or materials.
4. The Commissioner has approved certain deductions for various classes of contracts to reflect the amount for equipment and/or materials. These are detailed in Public Ruling PTA018—*Contractor deductions*.
5. Uncertainty may arise where payments under a relevant contract are made against separate invoices for the labour and non-labour components or itemised separately under a single invoice in which the labour and non-labour components are separately charged.
6. The purpose of this Public Ruling is to clarify which amounts paid under these circumstances would be taken to be wages and would, therefore, be subject to payroll tax.

¹ Sections 13C and 13D of the Payroll Tax Act

² Section 13E of the Payroll Tax Act

Ruling and explanation

7. In determining taxable wages for the purposes of s.13E of the Payroll Tax Act, payments made under a relevant contract can only be reduced by the approved deduction (as listed in Public Ruling PTA018—*Contractor deductions* or as otherwise determined by the Commissioner) regardless of the actual amount of non-labour component charged by the contractor.
8. Where the labour and non-labour components are charged separately (whether in a single invoice or otherwise), the entire sum paid (i.e. payments for both the labour and non-labour component) less any approved deduction must be declared as wages for payroll tax purposes.
9. If a deduction is not approved for a particular class of contract, an employer may apply in writing to the Commissioner for a decision under s.13E(5) of the Payroll Tax Act.
10. In applying for a decision, details on the cost of materials and equipment provided by the contractor and the amount(s) paid to the contractor must be provided to allow calculation of a percentage deduction.

Date of effect

11. This Public Ruling takes effect from the date of issue.

David Smith
Commissioner of State Revenue
Date of Issue 3 July 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA019.2	3 July 2009	3 July 2009	Current
PTA019.1	24 February 2009	1 July 2008	2 July 2009