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Public Ruling
Payroll Tax Act—Harmonised:
RECRUITMENT AGENCIES/PLACEMENT
AGENCIES/JOB PLACEMENT AGENCIES

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. A recruitment agency is an agency that places a worker with an employer who is a client of the agency. Recruitment agencies may also be known as 'placement agencies' or 'job placement agencies'.
3. A typical contractual arrangement in a recruitment agency situation is as follows:
 - (a) a contract or agreement exists between the agency and the client and/or the agency and the worker and
 - (b) a contract or agreement exists between the worker and the client.
4. A recruitment agency is different from an employment agency (or labour hire agency). Under an employment agency (or labour hire) arrangement, a contract exists between the agency and its client, and the agency and the worker, but there is no contract between the client and the worker. Employment agency arrangements are governed by Part 2, Division 1B of the Payroll Tax Act.
5. The purpose of this Public Ruling is to clarify who bears the payroll tax liability in circumstances where a recruitment agency places a worker with an employer who is a client of the agency.

Ruling and explanation

6. In a recruitment agency situation, there is usually a contract or agreement between the client and the worker. The relationship between the client and the worker could be that of an employer/employee (whether full-time, part-time or casual) or principal/contractor. The nature of the relationship between the client and the worker is determined by referring to the contract and applying the common law principles which distinguish between employees and contractors. In either case, the client is responsible for any payroll tax liability arising from payments made to the worker, subject to any exemptions which may apply under the Payroll Tax Act.
7. If the relationship between the worker and the client of the agency is that of an employee and employer, amounts paid by the client for the services provided by that employee will be subject to payroll tax if they fall within the definition of 'wages' in the Schedule of the Payroll Tax Act. This is also the case even if the client pays the worker via the recruitment agency.
8. If the relationship between the worker and the client is one of contractor and principal (or where the worker provides services via a company) the payroll tax liability of the client is determined by the contractor provisions in Part 2, Division 1A of the Payroll Tax Act.
9. Under these circumstances, the recruitment agency is not liable for payroll tax on wages paid to a worker who has been placed with a client. The employment agency provisions in Part 2, Division 1B of the Payroll Tax Act do not apply to a recruitment agency. They only apply to employment agency arrangements where there is no contract or agreement between the worker and the client.

Date of effect

10. 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
PTA029.2	3 July 2009	3 July 2009	Current
PTA029.1	24 February 2009	1 July 2008	2 July 2009