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Public Ruling

Payroll Tax Act—Harmonised: CONTRACTORS – SERVICES ANCILLARY TO THE SUPPLY OF GOODS

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 taken to be employers and employees¹ and payments made under such a contract are taken to be wages.² Payments taken to be 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'. One exclusion is a contract where the provision of labour is ancillary to the provision of materials and/or equipment.³
4. The purpose of this Public Ruling is to explain how s.13B(2)(a) of the Payroll Tax Act would apply to exclude a contract from the definition of 'relevant contract'.

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

² Section 13E of the Payroll Tax Act

³ Section 13B(2)(a) of the Payroll Tax Act

Ruling and explanation

5. 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 will be considered ancillary provided that:
- (a) there is evidence to substantiate that the provision of materials and/or equipment is the principal object of the contract and
 - (b) the amount attributable to materials and/or equipment is reasonable, having regard to the type of services provided.
6. For the purposes of paragraph 5(b):
- (a) in determining what is a reasonable amount, due regard must be given to the current market prices for such materials and equipment and
 - (b) this condition will not be satisfied if the materials and/or equipment are purchased from the principal or any member of a group (within the meaning of Part 4 of the Payroll Tax Act) to which the principal belongs on other than an arms' length basis.
7. Where the conditions for this exemption are not satisfied, the principal may be entitled to a deduction depending on the profession of the contractor. Public Ruling PTA018—*Contractor deductions* contains further details of such deduction.

Date of effect

8. 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
PTA033.2	3 July 2009	3 July 2009	Current
PTA033.1	24 February 2009	1 July 2008	2 July 2009