



Office of State Revenue
NSW TREASURY

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Revenue Ruling No. PTA033

Contractors - Services Ancillary to the Supply of Goods

Payroll Tax Act 2007

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
PTA033	22 September 2008	01 July 2007	Present	Current

Preamble

The *Payroll Tax Act 2007* (the Act), which commenced on 1 July 2007, rewrites the Pay-roll Tax Act 1971 and harmonises the payroll tax legislation in Victoria and NSW.

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 Chief Commissioner of State Revenue for a private ruling 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).

Please note that rulings do not have the force of law. Each decision made by the Office of State Revenue is made on the merits of each individual case having regard to any relevant ruling.

Mick Mioduszewski

Chief Commissioner of State Revenue

22 September 2008