

# Victorian pay-roll tax Application by employment agent for approval of special tax return arrangements

**Note:**

This application form must be read in conjunction with the current pay-roll tax employment agency provisions.

A probity examination will be undertaken on the applicant and the officers of the applicant, where the applicant is a company, and the partners, where the applicant is a partnership.

Unless, and until, a special arrangement is approved by the Commissioner the applicant has no authority to collect pay-roll tax from any of its clients.

## SECTION 1 EMPLOYMENT AGENT DETAILS

Existing pay-roll tax client number of employment agent (if applicable)

Legal name of employment agent (Sole trader/Partnership name/Company name/Trustee name)

Trust name (if applicable)

Business/Trading name (if applicable)

ACN

ABN (if applicable)

Principal place of business

State

Postcode

Registered Office address

State

Postcode

Estimated deemed wages

\$

(Amount of deemed wages you expect to declare on behalf of your clients each month)

Estimated number of clients

(How many clients you expect to collect tax from on a monthly basis)

## SECTION 2 MAILING/CONTACT DETAILS

Returns will be sent to you each month to enable payment of the pay-roll tax you collect for the previous month on behalf of your client(s).

The purpose of this section is to ensure that returns are sent to the appropriate person at the correct address. It also provides the State Revenue Office with a direct contact.

Person's name

Postal address (if same as principal place of business, please write as above)

State

Postcode

Telephone number

( )

Facsimile number

( )

E-mail address

### SECTION 3 DIRECTOR/PARTNERS DETAILS

If insufficient space please attach a schedule

#### Partners/Directors Details

FULL name and address

Date of birth

D	D	M	M	Y	Y	Y

State	Postcode		

FULL name and address

Date of birth

D	D	M	M	Y	Y	Y

State	Postcode		

FULL name and address

Date of birth

D	D	M	M	Y	Y	Y

State	Postcode		

#### Company Secretary (if applicable)

FULL name and address

Date of birth

D	D	M	M	Y	Y	Y

State	Postcode		

Are you currently collecting pay-roll tax from clients?

Yes

No

### SECTION 4 CERTIFICATION

The person authorised by the employment agent to make this application must sign here.

I certify I have the authority to make this application on behalf of the employment agency named on this form and that the information provided in this application is true and correct. I acknowledge that I have read and understood the current conditions of this special arrangement and agree to abide by them.

Authorised person's signature

Date

  
D D  
M M  
Y Y Y Y

Position

Name

#### By correspondence

State Revenue Office, GPO Box 1641N, MELBOURNE VIC 3001

#### In person

State Revenue Office, Ground Floor, 505 Little Collins Street, Melbourne

#### Internet

<http://www.sro.vic.gov.au>

#### Email

[sro@sro.vic.gov.au](mailto:sro@sro.vic.gov.au)

#### Telephone

13 2161

#### Facsimile

03 9628 6700

# Victorian pay-roll tax Application by employment agent for approval of special tax return arrangements

## CONDITIONS UNDER WHICH EMPLOYMENT AGENTS AGREE TO COLLECT PAY-ROLL TAX ON BEHALF OF THEIR CLIENTS, AS A SPECIFIED AGENT PURSUANT TO DIVISION 2 OF PART 6 OF THE TAXATION ADMINISTRATION ACT 1997.

Approval of a special tax return arrangement will be subject to the applicant agreeing to abide by the Terms and Conditions set out below. A full and complete copy of the terms and conditions will be provided to the applicant upon successful completion of the probity examination. An agreement setting out the Terms and Conditions is required to be executed by the applicant prior to the special tax return arrangement being approved.

### Commencement

1. The special arrangement, subject to the conditions set out below, will commence upon the execution of these terms and conditions by the Commissioner and will continue in effect until varied or revoked by notice in writing by the Commissioner or his delegate.

### Conditions of Approval of special arrangement

2. The Agent shall not collect monies from any person, including a taxpayer, in, or in purported, satisfaction of that person's pay-roll tax liability for the provision of services in connection with the employment agency contract, except during the currency of, and in accordance with the conditions, of this special arrangement.

### Agent's obligations

3. The Agent shall collect from the taxpayer monies sufficient to meet the taxpayer's monthly pay-roll tax liability in respect of the provision of services in connection with the employment agency contract at the current pay-roll tax rate, relevantly applying under section 7 of the *Pay-roll Tax Act 1971*, on the amount of the taxpayer's deemed wages under section 3D(2)(c) of the *Pay-roll Tax Act 1971*.
4. The Agent shall endorse on each invoice sent to the taxpayer:
  - (i) the amount of pay-roll tax that is being collected from the taxpayer under the invoice; and
  - (ii) the special arrangement registration number allocated to the Agent by the Commissioner upon the commencement of the special arrangement.
5. If, during any period, pay-roll tax is being collected by the Agent from the taxpayer pursuant to this special arrangement, the Agent is unable to comply with all the requirements of paragraph 4 above, the Commissioner may, upon request in writing from the Agent, permit the Agent to provide the taxpayer with a monthly statement in respect of each on-hired worker, in substitution of the obligations imposed in paragraph 4 above.
6. If the Agent adopts the procedure provided for in paragraph 5, the Agent shall issue and forward to all taxpayers a monthly statement by the 7th day following the end of any month during which the Agent has issued an invoice or invoices to the taxpayer relating to labour services.
7. A statement referred to in paragraphs 5 & 6 above shall include:
  - (i) all amounts invoiced that month;
  - (ii) the invoice reference number(s);
  - (iii) the amount of pay-roll tax payable;
  - (iv) the special arrangement registration number allocated to the Agent by the Commissioner; and

- (v) a requirement that the amount of pay-roll tax identified in the statement be paid to the Agent by the last working day of the month in which the statement was issued.

### Payments to the Commissioner

8. The Agent shall pay to the Commissioner all monies collected from taxpayers (whether or not they are pay-roll tax paid or purportedly paid by taxpayers, pursuant to the *Pay-roll Tax Act 1971*), under the special arrangement.
9. The Agent shall pay to the Commissioner by special return, or in such manner as the Commissioner or his delegates may in writing direct, all monies collected from taxpayers under the special arrangement during each calendar month, by the close of business on the 7th day following the end of the calendar month during which the pay-roll tax or payments purported to be pay-roll tax was collected.

### Lodgement of returns

10. The Agent shall lodge with the Commissioner special returns identifying the amount of pay-roll tax collected under the special arrangement for each calendar month during the currency of the special arrangement and for such further period as the Agent receives pay-roll tax from taxpayers in respect of invoices issued under the special arrangement.
11. The Agent shall lodge with the Commissioner NIL returns for such calendar months where no pay-roll tax has been collected from taxpayers under the special arrangement.
12. All returns required to be lodged by the Agent with the Commissioner under the special agreement shall be lodged by close of business on the 7th day of the month following the calendar month to which the return relates.
13. The Agent will not be required to lodge an annual adjustment as provided for in section 11B of the *Pay-roll Tax Act 1971* of any pay-roll tax liability affected by returns and payments made subject to these conditions.

### Records to be maintained

14. The Agent shall retain, and maintain at its expense, information and records sufficient to show the amount of all monies collected by the Agent from each taxpayer under the special arrangement.
15. The Agent shall retain the following information and records in relation to the special arrangement:
  - (i) the written agreement with the taxpayer for the collection and payment of pay-roll tax on their behalf in connection with the Employment Agency contract;
  - (ii) the written agreements or contracts with the taxpayer for the supply of employment services;
  - (iii) copies of invoices or billing details to each taxpayer;
  - (iv) accounts receivable records;
  - (v) details of all monies collected from each taxpayer and paid to the Commissioner on behalf of each taxpayer as pay-roll tax or purported pay-roll tax; and

- (vi) details of any adjustments to monies collected from each taxpayer as pay-roll tax or purported pay-roll tax.
16. The Agent shall retain in a readily accessible form and maintain at its expense the information and records, referred to in paragraphs 14 and 15 above, for five years from the date of their creation. The obligation imposed under this paragraph shall survive the termination of the special arrangement.
17. The Agent shall, upon request in writing, provide the Commissioner, or his delegates, with all necessary records and information, within a nominated time and in such form as the Commissioner or his delegates may reasonably direct, and provide reasonable assistance in establishing;
- (i) the amount of monies collected from the taxpayer as pay-roll tax or purported pay-roll tax by the Agent under the special arrangement;
  - (ii) the amount of monies collected from the taxpayer as pay-roll tax or purported pay-roll tax by the Agent under the special arrangement which has not been forwarded to the Commissioner; and
  - (iii) the identity of all taxpayers from whom or which the Agent has collected monies as pay-roll tax or purported pay-roll tax under the special arrangement.

The obligations imposed under this paragraph shall survive the termination of the special arrangement.

18. The Agent shall co-operate with the Commissioner and his delegates and provide reasonable assistance in the conduct of any audit of the Agent's information or records to ensure the correct amount of monies collected as pay-roll tax or purported pay-roll tax under the special arrangement has been paid to the Commissioner.

#### Notification of changes

19. The Agent shall:
- (i) notify the Commissioner, in writing, and
  - (ii) provide the Commissioner with full written particulars of any change in the:
    - (a) registered office of the Agent;
    - (b) identity of any director of the Agent;
    - (c) identity of any secretary of the Agent;
    - (d) registered name or business name of the Agent;
    - (e) principal place of business of the Agent; and
    - (f) ownership, either beneficial or legal, of a majority of the issued shares of the Agent;
    - (g) key personnel employed or otherwise engaged to manage the special arrangement on behalf of the Agent;
    - (h) name or names under which the Agent carries on business;

within 14 days of the happening of the change.

#### Performance guarantee

20. The Agent shall, if so required in writing by the Commissioner or his delegate, secure from the director or directors of the Agent, from time to time, a guarantee of the performance of these conditions by the Agent, in a form acceptable to the Commissioner.

#### Cessation of Agent's business

21. If:
- (a) the Agent ceases to carry on the business of an Employment Agent, for the purposes of Division 2 of Part 6 of the *Taxation Administration Act 1997*;
  - (b) the special arrangement in respect of the Agent is revoked;
  - (c) the Agent becomes an externally administered body corporate within the meaning of those words in section 9 of the Corporations Law; or

- (d) the Agent is served with notice of a statutory demand as provided for in section 459E of the Corporations Act;

the Agent shall immediately cease the invoicing of taxpayers for, and the collection of, pay-roll tax from taxpayers and, save for the circumstances set out in paragraph (b) above, immediately notify the Commissioner, in writing, of such cessation and the reasons for, and the date of, such cessation.

#### Adjustments to payments

22. Where the Agent determines that, in any month, it has made an over or under payment of pay-roll tax to the Commissioner under the special arrangement, the Agent shall, as soon as possible, make an adjustment to a payment made to the Commissioner.
23. However, the Agent may not make an adjustment to payments made to the Commissioner in respect of any overpayment, as provided for in paragraph 22, unless the adjustment is made in the same financial year as the over payment. Adjustments relating to overpayments in an earlier financial year shall be claimed by lodging a written application for the rectification of the overpayment with the Commissioner.
24. The Agent shall retain details of, and all records relating to, any adjustment of payments made to the Commissioner under the special arrangement for a period of five years from the date of such adjustment. The obligation imposed under this paragraph survives the termination of the special arrangement.

#### Acknowledgment and Agreement by Agent

25. The Agent acknowledges and agrees that the Commissioner may recover from the Agent (as if it is the taxpayer), any monies collected by the Agent from taxpayers under the special arrangement with interest thereon as provided for in the *Taxation Administration Act 1997*, and including any reasonable costs incurred by the Commissioner in the recovery of same, where those monies are not paid to the Commissioner by the date provided in these conditions.
26. The Agent agrees that if the Commissioner has insufficient information to make an exact calculation of the amount of pay-roll tax due under the special arrangement but not paid to the Commissioner by the Agent, the Commissioner may make an estimate of this amount and advise the Agent. The Agent acknowledges and agrees that the Commissioner may recover such estimated amount with interest and costs under paragraph 25 of these conditions from the Agent as if it is the taxpayer.
27. The Agent agrees that a certificate, issued under section 128 of the *Taxation Administration Act 1997*, specifying the amount, including an estimated amount, of pay-roll tax due to the Commissioner under the special arrangement and served on the Agent is, in the absence of evidence to the contrary, proof of the amount of pay-roll tax and/or interest specified in the certificate which is payable by the person named in the certificate.
28. The Agent acknowledges that the Commissioner accepts that monies collected under the special arrangement, have been paid in relation to an Employment Agency contract (as defined in section 3D (1) of the *Pay-roll Tax Act 1971*) where the taxpayer demonstrates, to the Commissioner's satisfaction that the Agent's invoice, endorsed with the correct amount of pay-roll tax, has been paid to the Agent.
29. The Agent acknowledges that under section 3F of the *Pay-roll Tax Act 1971*, the Commissioner may determine that any party to an employment agency contract, that reduces or avoids Pay-roll Tax liability may be deemed to be liable for pay-roll tax.
30. The Agent acknowledges that the conditions of the approval of the special arrangement are binding on it and that it may be guilty of an offence if any of the conditions are contravened under section 43 (2)(b) of the *Taxation Administration Act 1997*.

31. The Agent acknowledges that it and/or any person who is concerned in, or takes part in, the management of the Agent, may be prosecuted by the Commissioner under the *Taxation Administration Act 1997*, for any contravention of the conditions of the approval of the special arrangement, in addition to:
- (i) the rights of the Commissioner to recover from the Agent with interest under the *Taxation Administration Act 1997*, all reasonable costs incurred, and all monies collected from taxpayers as pay-roll tax or purported pay-roll tax under the special arrangement which are not paid to the Commissioner; and
  - (ii) the rights of the Commissioner to pursue the terms of any guarantee secured from the person or persons including the directors of the Agent for performance of the conditions of the special arrangement.
32. The Agent agrees:
- (i) that these terms and conditions will be governed by, and construed in accordance with the applicable laws of the State of Victoria;
  - (ii) that the Courts of the State of Victoria have jurisdiction to entertain any action in respect of, or arising out of these terms and conditions; and
  - (iii) to submit itself to the jurisdiction of the Courts of the State of Victoria.
33. The Agent shall not enter into, or seek to take advantage of, any agreement, arrangement, undertaking or scheme with any person, including a taxpayer, that has the effect of reducing the value of the pay-roll tax which is calculated in accordance with paragraph 3 above, and which is included in an invoice or statement in accordance with paragraph 4, 5, 6 and 7 above, as the case may be.

#### **Revocation of special arrangement**

34. The special arrangement may be revoked at the discretion of the Commissioner or his delegates, if:
- (i) the Agent fails to comply with any of these conditions of the special arrangement;
  - (ii) the Agent fails to comply with any provisions of the *Taxation Administration Act 1997* or the *Pay-roll Tax Act 1971*;
  - (iii) the Commissioner believes that the Agent has entered into an agreement, undertaking or arrangement, whether formal or informal and whether express or implied, which has or have as a purpose or an effect the reduction or avoidance of the liability of any person for pay-roll tax;
  - (iv) the Agent becomes an externally administered body corporate within the meaning of those words in section 9 of the Corporations Law;
  - (v) the Agent is served with notice of a statutory demand as provided for in section 459E of the Corporations Law; or
  - (vi) the Commissioner is satisfied that a special arrangement with an Agent is not necessary and convenient to give effect to the taxation laws as defined in s.4 of the *Taxation Administration Act 1997*.

#### **Waiver**

35. A waiver by the Commissioner in respect of a breach of a condition or conditions of the special arrangement shall not be deemed to be a waiver in respect of any other breach of the conditions of the special arrangement and failure by the Commissioner to enforce at any time a condition of the special arrangement, shall not be interpreted as a waiver of such condition.

#### **Variation of the special arrangement**

36. The Commissioner may at any time, by written notice to the Agent, vary these Conditions.

#### **Prohibition of assignment**

37. The special arrangement approved by the Commissioner affecting the Agent is specific to the Agent and no rights, responsibilities or obligations under the Special arrangement may be assigned or transferred.

#### **Registers**

38. The Agent agrees that the Commissioner may, from time to time, publish in any manner and record on any register deemed appropriate for the purposes, including an electronic register, details of the identity of persons in respect of whom a special arrangement has been approved together with details of any variation to or revocation of such special arrangement.

#### **Notices**

39. All notices required to be sent to or served upon the Commissioner for the purposes of the special arrangement shall be sent to:

#### **Privacy**

40. In carrying out its functions under Division 2 of Part 6 of the *Taxation Administration Act 1997*, the Agent has access to records containing personal information.
41. Schedule 1 of the *Information Privacy Act 2000 (Vic)* sets out 10 Information Privacy Principles. The Information Privacy Principles relate to the collection, disclosure, use and handling of personal information as defined in section 3 of the *Information Privacy Act 2000 (Vic)*.
42. The Agent undertakes as follows:
- (i) To use personal information obtained by the Agent only for the purposes specified in the Arrangement;
  - (ii) To comply with the *Information Privacy Act 2000 (Vic)* in respect of personal information disclosed to the Agent pursuant to the Arrangement;
  - (iii) To notify the Commissioner in the event of a misuse, an unauthorised disclosure or misappropriation of personal information;
  - (iv) To inform the Commissioner if an individual makes a complaint regarding an alleged interference with privacy;
  - (v) To co-operate with all reasonable requests of the Commissioner arising from any complaint;
  - (vi) To indemnify the Commissioner in the event of a proven interference with an individual's privacy; and
  - (vii) To promptly follow any reasonable direction of the Commissioner in relation to the protection of personal information provided to the Agent in accordance with the Arrangement and comply with any direction given by the Privacy Commissioner in respect of that information.

**The Commissioner of State Revenue**  
**GPO Box 1641 N**  
**Melbourne Vic 3001**

or served at:

**505 Little Collins Street, Melbourne, Victoria**