

Information Privacy Act 2000

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Victorian Pay-roll Tax Employment Agency Contracts – Declaration by Client

Effective 1 January 2005 the Pay-roll Tax Act 1971 (the Act) has been amended to impose a Pay-roll Tax liability on wages paid by employment agents to staff on-hired under employment agency contracts.

An employment agency contract is:

a contract, whether formal or informal and whether express or implied, under which a person (employment agent) procures the services of another person (service provider) for a client (the client) of the employment agent.

Section 5(3) of the Act provides an exemption for the employment agent where:

1. The client of the employment agent is exempt from Pay-roll Tax under Section 10 of the Act; and
2. The client has provided a declaration to that effect to the employment agent.

This form shall constitute such a declaration when duly signed and dated by the client of the employment agency.

This form should be held by the employment agency in order to satisfy the SRO, if requested, to substantiate the exclusion of wages paid to service providers on-hired to pay-roll tax exempt clients.

The Act contains anti-avoidance provisions in Section 5A that may impose a liability for Pay-roll Tax upon a client of an employment agent where that client makes an incorrect declaration of exemption to the employment agent.

Note that an exemption from Income Tax granted by the Australian Taxation Office does not meet the requirements of Section 10 of the Act.

Note also that the exemption does not apply where the client does not pay pay-roll tax simply because their (the clients) wages are below the pay-roll tax threshold.

Information about Section 10 of the Act is provided on the reverse of this form.

Legal name of client

Address of client

<input type="text"/>		State	Postcode	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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Client's ABN

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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I, (Authorised Employee of Client)

declare that (Legal Name of Client)

has been granted exemption from Pay-roll Tax by the State Revenue Office under the provisions of Section 10 of the Act.

I also confirm that (Legal Name of Client)

is a client of (Legal Name of Employment Agent)

and that the on-hired worker(s) is/are to be utilised by (Legal Name of Client)

in the activities for which the Pay-roll Tax exemption has been granted to (Legal Name of Client) .

Signed:

Date:

Details of Section 10 of the *Pay-roll Tax Act 1971*

10. Exemption from Pay-roll Tax

(1) The wages liable to Pay-roll Tax under the *Pay-roll Tax Act 1971* (the Act) do not include wages paid or payable:

- (a) By the Governor of a State;
- (b) By a religious institution to a person during a period in respect of which the institution satisfies the Commissioner that the person is engaged exclusively in religious work of the religious institution;
- (ba) By a public benevolent institution to a person during a period in respect of which the institution satisfies the Commissioner that the person is engaged exclusively in work of the institution of a public benevolent nature;
- (bb) By a charitable body (other than a school or educational institution or an instrumentality of the State) to a person during a period in respect of which the body satisfies the Commissioner that the person is engaged exclusively in work of the body of a charitable nature;
- (bc) By a public hospital to a person during a period in respect of which the hospital satisfies the Commissioner that the person is engaged exclusively in work of the hospital of a kind ordinarily performed in connexion with the conduct of public hospitals;
- (c) By a hospital which is carried on by a body corporate, society or association otherwise than for the purpose of profit or gain to the individual members of the body corporate, society or association being wages paid or payable to a person during a period in respect of which the hospital satisfies the Commissioner that the person is engaged exclusively in work of the hospital of a kind ordinarily performed in connexion with the conduct of hospitals;
- (ca) By a school council within the meaning of the *Education Act 1958*.
- (d) By a school that is:
 - (i) Registered under Part III of the *Education Act 1958*; and
 - (ii) Carried on by a person otherwise than for the purpose of profit or gain to the person or the individual members of the person, being wages paid or payable to a person in relation to the provision of education within that school;
- (da) By a school or college that:
 - (i) Is carried on by a body corporate, society or association otherwise than for the purpose of profit or gain to the individual members of the body corporate, society or association and is not carried on by or on behalf of the State of Victoria; and
 - (ii) Provides education predominantly at or below the secondary level of education and to students, the majority of whom are aged under 19 years of age; and
 - (iii) Was in existence as such a school or college before 27 May 1997, being wages paid or payable to a person in relation to the provision of education at or below the secondary level of education;
- (daa) By a school or college within the meaning of paragraph (da) as in force immediately before the commencement of section 19(a) of the *State Taxation Legislation (Further Amendment) Act 2002*, being wages referred to in that paragraph;
- (db) By a person who provides an educational service in connection with the curriculum of a school referred to in paragraph (d) or a school or college referred to in paragraph (da) or (daa) otherwise than for the purpose of profit or gain to the person or the individual members of the person, being wages paid or payable to a person in relation to the provision of that service;
- (e) By a municipal council or by any union or partnership of which all the members are municipal councils except to the extent that those wages are paid or payable:

- (i) For or in connexion with; or
 - (ii) For or in connexion with the construction of any buildings of the construction of any works or the installation of plant, machinery or equipment for use in or in connexion with the supply of electricity or gas, water supply, sewerage, the conduct of abattoirs, of public markets, of parking stations, of cemeteries, of crematoriums or of hostels or of any other activity that is a prescribed activity;
- (f) To members of his official staff by:
- (i) A consular or other representative (other than a diplomatic representative) in Australia of any other part of Her Majesty's Dominions or of any other country; or
 - (ii) A Trade Commissioner representing in Australia any other part of Her Majesty's Dominions;
- (g) By a specialized agency as defined by section one of the Convention on the Privileges and Immunities of the Specialised Agencies which was adopted by the General Assembly of the United Nations on the 21st November, 1947;
- (h) By the Commonwealth War Graves Commission;
- (i) By the Australian-American Educational Foundation; wages paid or payable by the employer
- (j) To a person who is a member of the Defence Force of the Commonwealth or of the armed forces of any part of Her Majesty's Dominions, being from whose employment the person is on leave by reason of his being such a member
- (k) To a new entrant who is employed-
- (i) In accordance with the requirements of an approved training scheme under section 51 of the *Vocational Education and Training Act 1990*; and
 - (ii) By a not for profit organisation that is declared by notice of the Treasurer published in the Government Gazette to be an approved group training organisation for the purposes of this paragraph;
- (l) Subject to section 10A of the Act, by a body corporate to a person for or in connection with an activity conducted for a municipal council, or for 2 or more municipal councils, under a written arrangement between the body corporate and the municipal council or municipal councils.
- (2) For the purposes of sub-section (1)(bb) "educational institution" includes a company:
- (a) In which an educational institution has a controlling interest; and
 - (b) That provides, promotes or supports the educational services of that institution.
- (3) An educational institution has a controlling interest in a company for the purposes of sub-section (2) if:
- (a) The members of the board of management (by whatever name called) of the company, or a majority of those members, or one or more of those members, being a member or members who is or are entitled to exercise a majority in voting power at meetings of the board of management, are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the educational institution; or
 - (b) The educational institution may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, 50% or more of the voting power attached to voting shares, or any class of voting shares, issued by the company; or
 - (c) The educational institution has power to appoint 50% or more of the members of the board of management (by whatever name called) of the company.

By correspondence

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In person

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