

Recruitment Agencies / Placement Agencies / Job Placement Agencies

Payroll Tax Act 2007
Revenue Ruling PTA029

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.

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. A typical contractual arrangement in a recruitment agency situation is as follows:

- A contract or agreement exists between the agency and the client and/or the agency and the worker, and
- A contract or agreement exists between the worker and the client.

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 Division 8 of Part 3 of the Act.

The purpose of this Revenue 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

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.

If the relationship between the worker and the client of the agency is that of an employee and employer, all amounts paid by the client for the services provided by that employee are wages and are subject to payroll tax. This is also the case even if the client pays the worker via the recruitment agency.

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 Division 7 of Part 3 of the Act.

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 Division 8 of Part 3 of the 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.

This Revenue Ruling is effective from 1 July 2007.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.001.