

# REVENUE RULINGS



## Pay-roll tax exemption for payments to owner-drivers

### Revenue Ruling PT.102

#### Replaces Revenue Ruling PT.019

#### Preamble

Section 3C was introduced into the *Pay-roll Tax Act 1971* (the Act) in 1984. It included provisions which deem payments made to certain contractors to be wages for pay-roll tax purposes. In the course of the debate on the Bill introducing these provisions into the Act, an undertaking was given on behalf of the then Treasurer that the new provisions would not apply to contractors who were owner-drivers, unless there was a contrived arrangement to avoid or evade pay-roll tax.

Section 3C(1)(g) was inserted into the Act in 1993 to formalise the Treasurer's undertaking. It exempts a contract under which a person provides services ancillary to the conveyance of goods by means of a vehicle provided by the person conveying them. The exemption does not apply where the Commissioner determines that the contract was entered into with the intention to avoid pay-roll tax.

The purpose of this ruling is to clarify the liability of employers in respect of payments made to contract owner-drivers who are not employees.

#### Ruling

Payments made for services performed by a contractor who provides his or her own vehicle, being a motorcycle, car or truck, will be exempt under section 3C(1)(g)(i) of the Act if:

- The vehicle provided by the contractor is not owned or leased by the employer;
- The employer makes no contribution to the capital or running expenses of the vehicle; and
- The main purpose of the contractor's work is the conveyance (ie. transportation and delivery) of goods. Any other services provided must be in every respect ancillary or secondary to that main purpose. That

is, those services must be supplemental or subservient to the main purpose.

#### ***Provision of vehicle***

To qualify for exemption, it is not necessary that the contractor own the vehicle used for the conveyance of goods. The vehicle may be made available through direct ownership, or through hiring, leasing or borrowing. However, it is imperative that the employer does not contribute in any way, whether directly or indirectly, to the provision of the vehicle.

#### ***Main purpose of the contract***

The State Revenue Office (SRO) is aware that some contract owner-drivers may convey goods for the purpose of installing those goods at the point of destination or for use in connection with repair, maintenance or servicing work at the point of destination. In these types of circumstances, the main purpose of the contract is not the conveyance of goods as such, but rather their installation or use in connection with repair, maintenance or servicing work and accordingly, the exemption under section 3C(1)(g)(i) will not apply.

#### ***Couriers***

The exemption will generally apply to couriers who use motorcycles, cars or trucks to convey goods. This is subject to all the conditions detailed in this ruling being fully satisfied.

In relation to pushbike couriers, the SRO considers that in most instances such persons are employees of the courier business. Therefore, the exemption cannot apply and all payments made to such persons are subject to pay-roll tax.

### **WorkCover**

This ruling has no application to the WorkCover legislation as it does not contain provisions equivalent to the exemption for contract owner-drivers. Employers with queries regarding their obligations in relation to contract owner-drivers should contact their Authorised Insurer.

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.01.

**Commissioner of State Revenue**  
**June 2002**

