

## Employment Agency Contracts

### Allowances and reimbursements paid to on-hired workers

#### Revenue Ruling PT.116

#### Preamble

1. The *Pay-roll Tax Act 1971* ('the PRT Act') was amended by the *State Taxation Acts (Tax Reform) Act 2004* to introduce changes to the employment agency contract provisions from 1 January 2005.
2. Under the new provisions, the employment agent is liable for pay-roll tax under an employment agency contract on payments made to, or in relation to, service providers (on-hired workers), as well as on the value of any fringe benefits provided and superannuation contributions made on behalf of these on-hired workers.
3. The purpose of this ruling is to clarify the correct pay-roll tax treatment of allowances and reimbursements paid (under an employment agency contract) by an employment agent to their on-hired workers.

#### Ruling

4. Payments of allowances and reimbursements made under an employment agency contract by employment agents to their on-hired workers, are to be treated in the same manner as allowances and reimbursements paid by employers to their employees.
5. Allowances have always been included in the definition of 'wages' under section 3(1) of the PRT Act. An allowance is usually paid by an employer to compensate an employee for an expense associated with their employment, as compensation for unusual or unfavourable working conditions, or in recognition of additional skills. Examples of such allowances include travelling, accommodation, uniform, tea, meal, dirt and first-aid allowances.
6. As a general rule all allowances are fully taxable for Pay-roll Tax purposes. The only allowances that are not wholly taxable are travelling allowances, accommodation allowances and living away from home allowances. For details on the treatment of these allowances see Revenue Ruling PT.089 *Exempt Allowances*.
7. Reimbursements differ from allowances and can be described as business expenses incurred by employees on behalf of their employer.
8. A reimbursement will not attract Pay-roll Tax provided the payment has the following characteristics:
  1. at the time it is paid, a business related expense has already been incurred by the employee (or a payment in advance is made) and a receipt relating to the expense is provided to the employer; and

2. the expenditure by the employee was incurred in the course of the employer's business; and
3. the precise amount of the expense is reimbursed.
9. However, any reimbursement that is taxable for fringe benefits tax purposes will be subject to Pay-roll Tax regardless of the above criteria. Furthermore, any reimbursements that are exempt benefits under the Fringe Benefits Tax Assessment Act 1986 will be exempt from Pay-roll Tax.
10. For further information on allowances and reimbursements, please refer to Revenue Ruling PT.059 *Allowances and Reimbursements*.
11. In summary, the treatment for Pay-roll Tax purposes of allowances and reimbursements paid, under an employment agency contract, by an employment agent to an on-hired worker is as follows:

#### Allowances

Allowances are fully taxable for Pay-roll Tax purposes, except for the following allowances:

1. accommodation,
2. travelling, and
3. living away from home allowances

#### Reimbursements

Payments that fall into this category are not taxable unless they have a taxable value for Fringe Benefits Tax purposes.

12. Please note that rulings do not have the force of law. Each decision made by the SRO 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.