

Contractors - Services Ancillary to the Supply of Goods

Revenue Ruling PT.123

Replaces PT.054

Preamble

Section 3C of the *Payroll Tax Act 1971* (the Act) provides for certain contractors (whether incorporated or not) to be deemed employees (under what are defined as “relevant contracts”) and for payments to those contractors to be defined as wages for the purposes of the Act.

Although most contracts for the provision of services are relevant contracts for the purposes of section 3C of the Act and payment made in relation to such contracts are generally wages subject to payroll tax, there are a number of possible exemptions that will exclude payments under such contracts from the definition of wages.

The purpose of this Revenue Ruling is to explain the operation of the exemption under section 3C(1)(d) of the Act concerning contracts where the provision of labour is ancillary to the provision of materials and/or equipment.

Ruling

The Commissioner of State Revenue (the Commissioner) has ruled that the provision of labour under a contract will be considered to be ancillary to the provision of materials and/or equipment under that contract where the cost to the principal of the provision of the materials and/or equipment exceeds 65% of the contract amount, as evidenced on the contractor’s invoice.

The amount attributable to materials and/or equipment on the invoice must be a reasonable figure, having regard to the type of services provided. In determining what is a reasonable figure, due regard must be given to the current market prices for such materials and equipment.

This exemption will not apply if the materials and/or equipment are purchased from the principal or any member of a group of employers (within the meaning of the Act), to which the principal belongs.

Where materials and/or equipment have been so purchased on an arms length basis, employers may make application to the Commissioner for a private ruling in accordance with Revenue Ruling GEN.009 if they consider the exemption should apply.

The exemption will not apply where the amount on the invoice which represents the non-labour component is not a reasonable figure having regard to the type of services provided.

In cases where the 65% criterion is not satisfied and the employer considers this exemption should nevertheless apply, an application in writing should be submitted to the Commissioner for a private ruling.

Industry Rulings - Plumbers, Electricians and Cabinet makers

Payments made to contracting plumbers, electricians and cabinet makers engaged in the building industry to ensure that prime cost items are put in place are exempt from pay-roll tax.

The intention of these industry rulings is to exempt contractors who are running their own independent trade or business and are not providing essentially labour-only services. These industry rulings are not intended to exempt contractors who charge an hourly rate for their services and merely on-charge the cost of materials.

These industry rulings are only applicable where the following conditions are satisfied:

- The contractor must quote for the job inclusive of *all* labour and materials;
- The contractor must bear the cost and responsibility for any faulty workmanship or materials specified in the quote; and
- The contractor must provide all the materials and equipment necessary to ensure that the prime cost items are put in place.
 - For contracting plumbers - the plumber must provide all materials (e.g. tubing, bends, traps, spouting, downpipes etc) necessary to fulfil the contract. This exemption will not apply where the person engaging the plumber supplies such materials. The exemption will, however, apply where the person engaging the plumber only supplies such items as the

major prime cost items (e.g. appliances) or prime cost décor fittings (e.g. baths, basins, taps etc.).

- For contracting electricians - the electrician must provide all the materials (e.g. electrical cabling, switches etc) necessary to fulfil the contract. This exemption will not apply where the person engaging the electrician supplies such materials. The exemption will, however, apply where the person engaging the electrician only supplies such items as the major prime cost items (e.g. appliances) or prime cost décor fittings (e.g. light fittings).
- For contracting cabinet makers - the cabinet maker must provide all the raw materials and manufacture the cabinets on his own premises using his own equipment.

When the above conditions are not satisfied the exemption does not apply. However, where the contractor provides some equipment or materials, the contractor deduction available to contractor plumbers, electricians and cabinet makers may still be available. (See Revenue Ruling PT.122)

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