

Contractors – Services not ordinarily required

Revenue Ruling PT.130

Replaces PT.057

Preamble

Section 3C of the *Pay-roll Tax Act 1971* (the Act) deems a person (whether incorporated or not) who entered into a 'relevant contract' with a business (the principal) to be an employee of the principal, and payments made to such persons to be wages for the purposes of the Act. Deemed wages under section 3C of the Act are subject to pay-roll tax.

While most contracts for the provision for services come within the meaning of 'relevant contracts' under section 3C of the Act, there are certain types of contracts that are specifically excluded from the definition of 'relevant contracts'. One of the exclusions is a contract which provides services that are not ordinarily required by the principal and the contractor ordinarily renders services of that kind to the public generally (section 3(C)(1)(e)(i) of the Act).

The purpose of this Revenue Ruling is to explain the criteria that must be met for a contract to be excluded by section 3(C)(1)(e)(i) of the Act.

Ruling

From time to time, businesses require certain services that are not associated with their mainstream business and it is more practical to engage contractors who ordinarily render similar services to the public, instead of permanent staff to perform these services. According to section 3(C)(1)(e)(i) of the Act, a contract providing such services is not a 'relevant contract' if the following two criteria are met:

- 1) the services provided by the contractor are not ordinarily required by the principal. Generally, this means services that are not related to the main business of the principal (e.g. services provided by painters and decorators engaged by a bank to paint and decorate its office), and
- 2) the contractor must ordinarily provide the services in question to the public generally. To satisfy this criterion, the contractor would need to have derived less than 40 per cent of gross trading income from the principal during the relevant financial year.

For the purposes of this Revenue Ruling, gross trading income is the gross income earned by the contractor in the conduct of the contractor's business excluding any investment income or wages.

Where the above criteria are not satisfied but you believe that the exclusion should apply to your contract, you may apply for a private ruling to the Commissioner of State Revenue in accordance with Revenue Ruling GEN.009.

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.