

Contractors – What constitutes a day's work?

Revenue Ruling PT.131

Replaces PT.068

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 for services of a kind ordinarily required by the principal for less than 180 days in a financial year (section 3C(1)(e)(ii) of the Act and Revenue Ruling PT.127). Another one is a contract for services by a person providing the same or similar services to a principal under the contract for no more than 90 days in a financial year (section 3C(1)(e)(iii) of the Act and Revenue Ruling PT.119).

The purpose of this Revenue Ruling is to clarify what constitutes a day's work for the purposes of sections 3C(1)(e)(ii) and 3C(1)(e)(iii) of the Act.

Ruling

A calendar day on which work is performed under a contract is counted as a 'day' in determining the number of days on which work is performed by a contractor, regardless of the amount of time worked on that day.

Example

Day	Contractor A (Hour)	Contractor B (Hour)
Monday	1	12
Tuesday	1	8
Wednesday	4	10
Thursday	2	9
Friday	8	8
Saturday	2	5
Total	18	52

For the purposes of determining whether the exclusions provided by sections 3C(1)(e)(ii) and 3C(1)(e)(iii) of the Act apply, both Contractor A and Contractor B are considered to have worked for six days even though Contractor A has worked for only 18 hours for that period and Contractor B has worked for 52 hours during the same period.

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.