

Contractor Provisions – Door-to-door sale of goods

Payroll Tax Act 2007
Revenue Ruling PTA007

Preamble

The *Payroll Tax Act 2007* (the Act), which commenced on 1 July 2007, rewrites the *Pay-roll Tax Act 1971* and harmonises the payroll tax legislation in Victoria and NSW.

The contractor provisions are contained in Division 7 of Part 3 of the Act. Under these provisions, the respective persons under a relevant contract are taken to be employer and employee and payments made under such a contract are taken to be wages for payroll tax purposes.

Although most contracts for the provision for services initially come within the meaning of a relevant contract under section 32 of the Act, there are certain types of contracts that are specifically exempt from the definition of a relevant contract. One of these exemptions, provided under section 32(2)(d)(iii) of the Act, relates to a contract under which a person is supplied services for or in relation to the door-to-door sale of goods solely for domestic purposes. Accordingly, payments made under such a contract are exempt from payroll tax.

The purpose of this Revenue Ruling is to explain the exemption for contractors engaged in the door to door sales of goods for domestic purposes.

Ruling

The exemption for door-to-door sales of goods for domestic purposes will only apply if all the following criteria are satisfied:

1. The sale is not made to a body corporate
2. The salesperson is not an employee, but has an agency arrangement for the door-to-door sale of goods directly to the public
3. The goods must not be purchased for the purpose of retailing or reselling or hiring
4. The sale is to have taken place either at a customer's residence, or at the customer's place of work, or elsewhere than at the vendor's trade premises or a place where goods of that sort are normally offered for sale
5. Where the sale is made away from the vendor's trade premises, this cannot have been made as a consequence of the request of the customer or the agent of the customer

6. The original approach (ie. the initial physical attendance, not a telephone contact) leading to the sale was not made at the vendor's premises
7. The exemption applies to all credit sales and cash sales but not sales on a monthly credit arrangement
8. Goods purchased must be used by the purchaser solely for domestic purposes and must not include goods purchased to be further processed in the course of manufacture or goods purchased for commercial or industrial purposes
9. The term 'goods' includes all moveable personal property other than money or livestock and includes any removable fixtures of real estate. It does not include services provided to any personal property or fixtures of real estate, for example, cladding and painting
10. Where the sale of goods involves ancillary services, such as the installation of the goods for which a separate fee may or may not be charged or services provided under the warranty period, those ancillary services will not preclude the contract from being an exempt contract under this section
11. The agent must personally organise the direct sale of the goods to the end users of the goods

Note: The exemption will not apply where it has been determined by the Commissioner of State Revenue that the contract or arrangement was entered into with an intention whether directly or indirectly of avoiding or evading the payment of tax.

Where there is uncertainty as to whether an agreement falls within the exemption, please apply for a private ruling from the State Revenue Office.

This Revenue Ruling is effective from 1 July 2007.

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.001.