

Contractors – 180-day exemption

Revenue Ruling PT.053

CEASED 30 November 2006 CEASED 30 November 2006 CEASED 30 November 2006 CEASED 30 November 2006

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 payments made in relation to such contracts are generally wages subject to payroll tax, there are seven possible exemptions that will exclude payments under such contracts from the definition of wages.

The purpose of this ruling is to explain the exemption under Section 3C(1)(e)(ii) of the Act concerning contracts for the provision of services of a kind ordinarily required by the principal for less than 180 days in a financial year.

Ruling

If a relevant contract involves the provision of services of a kind ordinarily required by the principal for fewer than 180 days in a financial year, then the payments made in relation to that contract are exempt from payroll tax.

Please note that this exemption is only concerned with the number of days on which a particular type of service (e.g. carpentry, painting etc.) is required by the principal during the course of the financial year. The exemption may apply even where a principal engages numerous contractors to perform the same type of services during the financial year.

For the purpose of this exemption, the carrying out of **any** work on a given day will count as a full day. In addition, the days worked do not have to be consecutive days, it is the total days in **aggregate** during the financial year that is considered in determining whether the exemption applies.

Example

A building company engages the services of a roof tiler to perform services on 100 days between July 19X1 and January 19X2. A second roof tiler is engaged to perform services on 95 of these 100 days. No other roof tiling work is required by this building company during the course of the financial year.

The services of a roof tiler are thus required, in this example, on 100 days only and the exemption is satisfied in respect of both contractors.

However, note that if in the above example, the second roof tiler had performed the 95 days services during the period February 19X2 to June 19X2 (ie. not concurrently with the other contractors), the exemption would not be satisfied, because services of that kind would have been rendered on 195 days in total.

Note also that it is immaterial whether the other persons providing roof tiling services are contractors or employees of the principal in determining the application of the exemption to any particular contractor.

This exemption differs to that available under the 90 day rule (see Revenue Ruling PT.052), as the 90 day rule involves determining the number of days on which an **individual contractor** provides services, whereas the 180 day rule involves determining the number of days on which a particular type of **service** is required (regardless of the number of contractors and/or employees involved).

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.

Denzil Griffiths
Commissioner of State Revenue
30 September 1993
