

Contractors' Services Not Ordinarily Required

Revenue Ruling PT.057

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)(i) of the Act concerning contracts where the services rendered under the contract are not ordinarily required by the principal, and the contractor ordinarily renders those services to the public generally.

Ruling

This exemption recognises the fact that businesses do require certain services that are not associated with their mainstream business, but so infrequently that permanent staff are not engaged.

For it to apply, the following criteria need to be satisfied:

- 1. The services provided by the contractor must not ordinarily be required by the principal. This will be accepted where the services are of a type not allied with the main business of the principal (eg a firm of painters and decorators are engaged to paint and decorate the offices of a bank), and**

- 2. The contractor must ordinarily provide the services in question to the public generally. To satisfy this criteria, the contractor would need to have derived less than 40 per cent of gross trading income from the principal in question during the current financial year.**

For the purposes of this ruling, gross trading income is considered to be the gross income earned by the contractor in the conduct of the contractor's business, and therefore excludes any investment income or wages that would appear on a group certificate.

In cases where the above criteria are not satisfied, but the principal believes that the exemption should apply to a particular contractor, application should be made to the Commissioner for an individual ruling.

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.