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Public Ruling

Pay-roll Tax Act—Harmonised:
PAYROLL TAX EXEMPTION FOR PAYMENTS
TO OWNER-DRIVERS

A Public Ruling, when issued, is the published view of the Commissioner on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue/s it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant, subsidy or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. The *Pay-roll Tax (Harmonisation) Amendment Act 2008* amended the *Pay-roll Tax Act 1971* (the *Pay-roll Tax Act*) with effect from 1 July 2008 to harmonise certain aspects of Queensland's pay-roll tax system with the systems of other jurisdictions.
2. The contractor provisions are contained in Part 2, Division 1A of the *Pay-roll Tax 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 pay-roll tax purposes.
3. Although most contracts for the provision for services initially come within the meaning of a 'relevant contract' under s.13B of the *Pay-roll Tax Act*, there are certain types of contracts that are specifically exempted from the definition of a 'relevant contract'.
4. One of these exemptions, provided under s.13B(2)(d)(i) of the *Pay-roll Tax Act*, exempts a contract under which a person provides services ancillary to the conveyance of goods by means of a vehicle provided by the person conveying them (i.e. contract owner-drivers).
5. The exemption does not apply where the Commissioner of State Revenue (the Commissioner) determines that the contract was entered into with the intention to avoid pay-roll tax.
6. This Public Ruling sets out the conditions which need to be satisfied in order for payments made to owner-drivers to be exempt under s.13B(2)(d)(i) of the *Pay-roll Tax Act*.

Ruling and explanation

7. Payments made for services performed by a contractor who provides his or her own vehicle, being a motorcycle, car or truck, will be exempt under s.13B(2)(d)(i) of the Pay-roll Tax Act if:
- (a) the vehicle provided by the contractor is not owned or leased by the employer
 - (b) the employer makes no contribution, whether directly or indirectly, to the capital or running expenses of the vehicle and
 - (c) the main purpose of the contractor's work is the conveyance (i.e. transportation and delivery) of goods. Any other services provided must be in every respect ancillary or secondary to that main purpose. That is, those services must be supplemental or subservient to the main purpose.

Provision of vehicle

8. To qualify for exemption, it is not necessary that the contractor own the vehicle used for the conveyance of goods. The vehicle may be made available through direct ownership, or through hiring, leasing or borrowing.

Main purpose of the contract

9. Some contract owner-drivers may convey goods for the purpose of installing those goods at the point of destination or for use in connection with repair, maintenance or servicing work at the point of destination. In these types of circumstances, the main purpose of the contract is not the conveyance of goods as such, but rather their installation or use in connection with repair, maintenance or servicing work and accordingly, the exemption under s.13B(2)(d)(i) of the Pay-roll Tax Act will not apply.

Couriers

10. The exemption will generally apply to couriers who use motorcycles, cars or trucks to convey goods. This is subject to all the conditions detailed in this Public Ruling being fully satisfied.
11. In relation to bicycle couriers, the Commissioner considers that in most instances such persons are employees of the courier business. If a bicycle courier is an employee of the courier business, payments made to the courier are subject to pay-roll tax under the general definition of 'wages'.

Date of effect

12. This Public Ruling takes effect from 1 July 2008.

David Smith
Commissioner of State Revenue
Date of Issue 24 February 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA006.1	24 February 2009	1 July 2008	2 July 2009

Superseded