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Public Ruling

**Pay-roll Tax Act—Harmonised:
CONTRACTOR PROVISIONS – DOOR-TO-
DOOR SALE OF GOODS**

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)(iii) of the Pay-roll Tax 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 pay-roll tax.
5. The purpose of this Public Ruling is to explain the exemption for contractors engaged in the door-to-door sale of goods for domestic purposes.

Ruling and explanation

6. The exemption for door-to-door sale of goods for domestic purposes will only apply if all the following criteria are satisfied:
 - (a) the sale is not made to a body corporate
 - (b) the salesperson is not an employee, but has an agency arrangement for the door-to-door sale of goods directly to the public
 - (c) the goods must not be purchased for the purpose of retailing or reselling or hiring
 - (d) 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
 - (e) 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
 - (f) the original approach (i.e. the initial physical attendance, not a telephone contact) leading to the sale was not made at the vendor's premises
 - (g) the 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 and
 - (h) the agent must personally organise the direct sale of the goods to the end users of the goods.
7. The exemption applies to all credit sales and cash sales but not sales on a monthly credit arrangement.
8. 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.
9. 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.
10. 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 pay-roll tax.

Date of effect

11. 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
PTA007.1	24 February 2009	1 July 2008	2 July 2009

Superseded