

Contractors – Labour and non-labour components

Payroll Tax Act 2007
Revenue Ruling PTA019

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.

Parties to a 'relevant contract' are deemed to be employers and employees (sections 33 and 34 of the Act) and payments made under a contract are deemed to be wages (section 35 of the Act). Deemed wages are subject to payroll tax under section 36 of the Act.

While most contracts for the provision of services come within the meaning of 'relevant contract' under section 32 of the Act, certain types of contracts are specifically excluded from the definition of 'relevant contract'. Where none of the exclusions apply, section 35(2) of the Act allows the Commissioner of State Revenue (the Commissioner) to determine an amount which can be deducted from the payments made under the contract. This amount relates to the non-labour component where the contractor provides equipment and/or materials. The Commissioner has approved certain deductions for various classes of contracts to reflect the amount for equipment and/or materials (please refer to Revenue Ruling PTA018)

Uncertainty may arise where payments under a relevant contract are made against separate invoices for the labour and non-labour components or itemised separately under a single invoice in which the labour and non-labour components are separately charged. The purpose of this Revenue Ruling is to clarify which amounts paid under these circumstances would be taken to be wages and would, therefore, be subject to pay-roll tax.

Ruling

In determining taxable wages for the purposes of section 35 of the Act, payments made under a relevant contract can only be reduced by the approved deduction (listed in Revenue Ruling PTA018) regardless of the actual amount of non-labour component charged by the contractor. Where the labour and non-labour components are charged separately (whether in a single invoice or otherwise), the entire sum paid (i.e. payments for both the labour and non-labour component) less any approved deduction must be declared as wages for payroll tax purposes.

If a deduction is not approved for a particular class of contract, an employer may apply in writing to the Commissioner for a private ruling. Similarly where an employer believes that it is entitled to a higher deduction than the approved deduction, the employer may apply to the Commissioner for a private ruling.

In applying for a private ruling, details on the cost of materials and equipment provided by the contractor and the amount(s) paid to the contractor must be provided to allow calculation of a percentage deduction. Details on how to apply for a private ruling are set out in Revenue Ruling GEN.009.

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.