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**Public Ruling**

**Payroll Tax Act—Harmonised:**  
**CONTRACTORS—SERVICES NOT**  
**ORDINARILY REQUIRED**

*A Public Ruling, when issued, is the published view of the Commissioner of State Revenue (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 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 *Payroll Tax Act 1971* (the Payroll Tax Act) with effect from 1 July 2008 to harmonise certain aspects of Queensland's payroll tax system with the systems of other jurisdictions.
2. Parties to a 'relevant contract' are deemed to be employers and employees<sup>1</sup> and payments made under such a contract are deemed to be wages<sup>2</sup>. Deemed wages are subject to payroll tax under s.13F of the Payroll Tax Act.
3. While most contracts for the provision of services come within the meaning of 'relevant contract' under s.13B of the Payroll Tax Act, certain types of contracts are specifically excluded from the definition of 'relevant contract'. One of the contracts is a contract for services that are not ordinarily required by the principal, and the contractor providing the services ordinarily renders services of that kind to the public generally<sup>3</sup>.
4. The purpose of this Public Ruling is to explain the criteria that must be met for a contract to be excluded under s.13B(2)(b)(i) of the Payroll Tax Act.

<sup>1</sup> Sections 13C and 13D of the Payroll Tax Act

<sup>2</sup> Section 13E of the Payroll Tax Act

<sup>3</sup> Section 13B(2)(b)(i) of the Payroll Tax Act

## Ruling and explanation

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5. From time to time, businesses may require services that are not associated with their mainstream business activities. As these services are required so infrequently, it would be more practical for businesses to engage contractors instead of permanent staff to perform these services when the need arises.
6. Contracts to provide these services by contractors who ordinarily render such services to the general public are excluded from the definition of 'relevant contract' by s.13B(2)(b)(i) of the Payroll Tax Act. Consequently, payments made under such contracts would not be subject to payroll tax.
7. For the exemption in s.13B(2)(b)(i) of the Payroll Tax Act to apply, the following criteria must be satisfied:
  - (a) the services provided by the contractor must not ordinarily be required by the principal (e.g. services provided by painters and decorators engaged by a bank to paint and decorate its office), and
  - (b) the contractor must ordinarily provide the services in question to the public generally. To satisfy this criterion, the contractor would need to have derived less than 40 per cent of gross trading income from the principal during the relevant financial year.
8. For the purposes of this Public Ruling, gross trading income is the gross income earned by the contractor in the conduct of the contractor's business excluding any investment income or wages.
9. Where the above criteria are not satisfied but you believe you are entitled to this exemption, you may apply to the Commissioner for a determination.

## Date of effect

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

David Smith  
Commissioner of State Revenue  
Date of Issue: 18 February 2013

## References

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Public Ruling	Issued	Dates of effect	
		From	To
PTA022.1	18 February 2013	1 July 2008	Current