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| REVENUE CIRCULAR PTA033 |
| Contractors: Services Ancillary to the Supply of Goods – <i>Payroll Tax Act 2011</i> |
| Issue Date: 25 February 2016 |
| Status: Current – Effective 29 February 2016 |
| Previous Circular: - |

Preamble

1. Under sections 33 and 34 of the *Payroll Tax Act 2011* (the Act), parties to a ‘relevant contract’ are taken to be employers and employees 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.
2. 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**. One of the exclusions is a contract where the provision of labour is ancillary to the provision of materials and/or equipment (section 32 (2) (a) of the Act).
3. The purpose of this Revenue Circular is to explain how section 32 (2) (a) of the Act would apply to exclude a contract from the definition of **relevant contract**.
4. As at the date of issue, this circular is harmonised with NSW Revenue Ruling PTA033 (effective 1 July 2009) and Victorian Revenue Ruling PTA033 (effective 1 July 2007).

Circular

Services ancillary to the supply of goods

5. Where the amount relating to the provision of materials and/or equipment under a contract is more than 50 per cent of the total contract amount, the provision of labour under the same contract is considered ancillary. There must be evidence to substantiate that the provision of materials and/or equipment is the principal object of the contract.
6. The amount attributable to materials and/or equipment must be reasonable, having regard to the type of services provided. In determining what is a reasonable amount, due regard must be given to the current market prices for such materials and equipment. This exemption does not apply if the materials and/or equipment are purchased from the principal or any member of a group (within the meaning of part 5 of the Act) to which the principal belongs.

7. The principal may request that the Commissioner for ACT Revenue apply the exemption if:
 - a. the 50 per cent criterion is not satisfied, and/or
 - b. the materials and/or equipment were bought from the principal (or a member of a group to which the principal belongs) at arms' length; and
 - c. the principal believes that the exemption should apply.
8. Alternatively, where the 50 per cent criterion is not satisfied, the principal may be entitled to a deduction depending on the profession of the contractor (Revenue Circular PTA018).
9. The exemption does not apply where:
 - a. the services supplied under the contract include any services not mentioned in section 32 (2) of the Act (i.e. the services supplied must all be exempt services); or
 - b. the Commissioner for ACT Revenue determines that the contract was entered into with the intention to avoid payroll tax.

SIGNED

Kim Salisbury
Commissioner for ACT Revenue
25 February 2016