

REVENUE CIRCULAR PTA006.1
Payroll Tax Exemption for Payments to Owner Drivers – <i>Payroll Tax Act 2011</i>
Issue Date: 25 November 2015
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Preamble

1. The *Payroll Tax Act 2011* (the Act), which commenced on 1 July 2011, rewrites the *Payroll Tax Act 1987* (the 1987 Act) and harmonises the payroll tax legislation across Australian jurisdictions.
2. The contractor provisions are contained in part 3, division 3.7 of the Act.
3. Under these provisions, the respective parties under a service contract are taken to be employer and employee, and payments made under such a contract are taken to be wages for payroll tax purposes.
4. Although most contracts for the provision for services initially come within the meaning of a relevant contract under section 32 of the Act, there are certain types of contracts that are specifically exempted from the definition of a service contract.
5. One of the exemptions provided under section 32 (2) (c) exempts a contract under which a person provides services solely for or ancillary to the conveyance of goods by means of a vehicle provided by the person conveying them (i.e. contract owner-drivers).
6. The exemption does not apply where:
 - a. the services supplied under the contract include any services not mentioned in section 32 (2) (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.
7. This circular sets out the conditions which need to be satisfied in order for payments made to owner-drivers to be exempt under section 32 (2) (c) of the Act.

Circular

Exemption for Payments to Owner Drivers

8. 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 section 32 (2) (c) of the 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. the transportation and delivery) of goods. If any other services are provided, they 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

- 9. 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

- 10. The ACT Revenue Office is aware that 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. Accordingly, the exemption under section 32 (2) (c) will not apply.

Couriers

- 11. 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 circular being fully met.
- 12. In relation to pushbike couriers, the ACT Revenue Office considers that in most instances, such workers are employees of the courier business. Therefore, the exemption cannot apply and all payments made to such workers are subject to payroll tax.

SIGNED

Kim Salisbury
Commissioner for ACT Revenue
25 November 2015