

Employment Agency Contracts Declaration by Client

EXPLANATORY NOTES:

- An employment agency contract is a contract under which a person (employment agent) procures the services of another person (service provider) for a client of the employment agent. Such a contract could be formal or informal, and could be expressly made or implied.
- Division 8 of Part 3 of the *Payroll Tax Act* (the Act) imposes payroll tax on wages paid by employment agents to service providers on-hired under employment agency contracts.
- This declaration is to be made by the client who is exempt under Part 4 (other than Division 4 or 5 of that Part, section 50 or clause 17 of Schedule 2) of the Act – see overleaf.
- The employment agent is liable for payroll tax on all payments made to the service provider unless this declaration has been received from the client (section 40(2) of the Act).
- The employment agent must keep this declaration for five years and be able to produce it upon request from the Territory Revenue Office.
- If the client has been granted an income tax exemption by the Australian Taxation Office, it does not necessarily mean that the client is exempt under Part 4 of the Act. Please read the information overleaf and Revenue Ruling [PTA026](#) carefully before completing this form.
- Under section 42 of the Act, the Commissioner of Territory Revenue may impose a payroll tax liability on a client of an employment agent if the client makes an incorrect declaration of exemption to the employment agent.
- The exemption does not apply where the client does not pay payroll tax merely because the client's wages are below the payroll tax threshold.

CONTACT DETAILS

Name of employment agent:

Date contract entered into:

Name of client:

Address of client:

State:

Postcode:

ABN of client:

DECLARATION

I, (Authorised Employee of Client)

being an authorised officer of (Legal Name of Client)

declare that (Legal name of Client) is:

- exempt from payroll tax as an entity of a type specified in section (insert 1, 2, 3, 4 or 5) overleaf; and
- the service provider(s) is/are to be utilised in activities that are also exempt under Part 4 of the Act.

(Signature of Authorised Employee of Client)

WARNING: It is an offence under the *Taxation Administration Act* to provide information that you know is misleading in a material particular (maximum penalty 400 penalty units – current penalty unit values are available from www.revenue.nt.gov.au).

PRIVACY STATEMENT

The information in this form is required for the employment agent procuring the services of a service provider for you to claim an exemption from payroll tax for wages paid to that service provider. Without this declaration, the employment agent cannot claim the exemption. The information contained in this form may be communicated to persons authorised under the *Taxation Administration Act*. You may review or correct any personal information by contacting the Territory Revenue Office.

TERRITORY REVENUE OFFICE

GPO Box 154 Darwin NT 0801 ph: 1300 305 353 email: ntrevenue@nt.gov.au www.revenue.nt.gov.au

Part 4 of the *Payroll Tax Act* provides that wages paid or payable by certain types of employers are exempt from payroll tax. The following employers are exempt for the purposes of this declaration.

IMPORTANT

- The exemption only applies for wages paid by an employer and for services of kind specified below. If an employer is not a member of a class specified below, the exemption does not apply.
- Where the legislation conditions the exemption relating to a particular class of employer, the condition must also be met. For example, for a charitable organisation, the worker must be exclusively engaged in work of a charitable nature.
- The Australian Business Register (www.abr.business.gov.au) may be used as a guide of the status of an employer. If you have any concerns regarding the exempt status of an entity, contact the Territory Revenue Office on 1300 305 353.

1. NON-PROFIT ORGANISATION

Wages are exempt wages if they are paid or payable by any of the following:

- a religious institution;
- a public benevolent institution (other than an instrumentality of the Territory); or
- a non-profit organisation having as its sole or dominant purpose a charitable, benevolent, philanthropic or patriotic purpose (other than a school, *educational institution*, *educational company* or instrumentality of the Territory).

The wages must be paid or payable:

- for work of a kind ordinarily performed in connection with the religious, charitable, benevolent, philanthropic, or patriotic purpose of the institution or organisation; and
- to a person engaged exclusively in that kind of work.

An *educational company* is a company in which an *educational institution* has a controlling interest and that provides, promotes or supports the educational services of that institution.

An *educational institution* means an entity that provides educational above secondary level.

An *educational institution* has a controlling interest in an *educational company* if:

- members of the board of management of the company are entitled to exercise more than 50% of the voting power at meetings where the board of management are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the *educational institution*; or
- the *educational institution* may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, more than 50% of the voting power attached to voting shares, or any class of voting shares, issued by the company; or
- the *educational institution* has the power to appoint more than 50% of the members of the board of management of the company.

2. SCHOOLS AND COLLEGES

Wages paid or payable by a school or college (other than a technical school or a technical college) that:

- provides education at or below, but not above, the secondary level of education; and
- is carried on by a body corporate, society or association, otherwise than for the purpose of profit or gain to the individual members of the body corporate, society or association, and is not carried on by or on behalf of the Territory.

3. HEALTH CARE SERVICE PROVIDERS

Wages paid or payable by *health care service provider* are exempt wages.

The wages must be paid or payable:

- for work of a kind ordinarily performed in connection with the conduct of a *health care service provider*; and
- to a person engaged exclusively in that kind of work.

A *health care service provider* is a public hospital or, a hospital that is carried on by a society or association otherwise than for the profit or gain to the individual member of the society or association.

4. LOCAL GOVERNING BODIES INCLUDING COUNCILS

Wages are exempt wages if they are paid by a *local governing body*, or a union in partnership or which all the members are *local governing bodies*.

Wages are exempt wages if they are paid or payable:

- by a wholly-owned subsidiary (within the meaning of the Corporations Act 2001) of a *local governing body*;
- to a person for, or in connection with, an activity that is conducted for the *local governing body* under a written
- arrangement between the subsidiary and the *local governing body*; or

the exemption does not apply to activities of a prescribed kind. No such activities have been prescribed at the date of publishing this declaration.

A *local governing body* means:

- a council constituted, or local government subsidiary formed, under the *Local Government Act*; or
- a body declared under section 19 of the *Local Government Grants Commission Act* to be a *local governing body*; or
- a body prescribed by regulation. No bodies have been prescribed at the date of publishing this declaration.

5. OTHER GOVERNMENT AND DEFENCE

Wages are exempt if paid or payable by the Governor of a State, the Commonwealth War Graves Commission, to members of his or her official staff by a consular or other representative of any country in Australia (other than a diplomatic representative), to member of his or her official staff by a Trade Commissioner representing any other part of the Commonwealth of Nations in Australia or by the Australian-American Fulbright Commission.