



## **PAYROLL TAX    Employment Agency Arrangements – Chain of On-hire**

### **Introduction**

1. This revenue ruling explains the payroll tax implications of an employment agency arrangement involving multiple employment agents (chain of on-hire).
2. This revenue ruling applies to circumstances in which an employer-employee relationship between the employment agent and the worker does not exist at the time that the worker is carrying out services for the client.

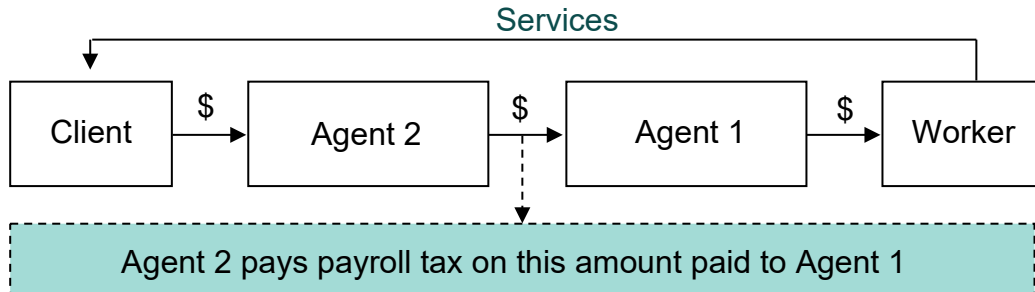
### **Background**

3. Section 9AA(1) of the *Pay-roll Tax Assessment Act 2002* (the Act) defines *wages* to include wages, remuneration, salary, commission, bonuses or allowances paid or payable to or in relation to an employee.
4. Section 9GA of the Act provides for wages to include amounts paid by employment agents. Under this section,

“An amount in respect of services that is paid or payable by an employment agent (directly or indirectly) to a person who was engaged to perform the services for a client of the employment agent, or to some other person, as a result of which engagement the employment agent receives payment (directly or indirectly, whether by way of a lump sum or an ongoing fee) in relation to the period during which the services are performed for the client by the person engaged to perform them is taken to be wages paid or payable by the agent (as an employer) to the person for or in relation to the services performed by the person”.
5. The Glossary to the Act defines an *employment agent* as a person (the agent) who procures the services of another person (the worker) for a third person (the client) under an arrangement where:
  - (a) the worker does not become the employee of either the agent or the client, but does perform duties of a similar nature to those of an employee; and
  - (b) remuneration is paid directly or indirectly by the agent to the worker or to some other person for the services performed by the worker.
6. Where an employment agent procures a worker to perform services for a client under an employment agency arrangement, any payments made by the employment agent to or in relation to the worker, directly or indirectly, are wages for the purposes of the Act.
7. Section 54(1) of the *Taxation Administration Act 2003* provides for the Commissioner to refund an amount to a taxpayer if the Commissioner is satisfied on an application for a refund that an overpayment of tax has been made.

## Ruling

8. A chain of on-hire occurs when an employment agent (Agent 1) on-hires a worker to another employment agent (Agent 2) who in turn on-hires the worker to its client. The following diagram shows an example of a chain of on-hire arrangement in which Agent 1 has provided a worker for Agent 2's client:



9. In circumstances where there is a chain of on-hire, the employment agent closest to the client (in the above case, Agent 2) will be regarded by the Commissioner as the agent who is liable for payroll tax.
10. Agent 2 will be required to pay payroll tax on any payment made in order to procure workers for the client. Where a subsequent agent has also paid payroll tax on payments made to workers procured for Agent 2, that agent may make an application to the Commissioner for a refund.
11. Where a worker has been provided by a subsequent agent, hence creating the chain of on-hire, Agent 2 should complete the form 'Employment Agency Contracts – Chain of On-hire Declaration' (attached). This completed form should be submitted to, and retained by, the agent who has provided the worker (Agent 1). For audit purposes, this form should be retained for five (5) years from the date of the transaction.
12. The Declaration identified in paragraph 11 is separate to any requirements under the Act, including the requirement to register for payroll tax or the requirement to pay payroll tax on payments made to workers procured directly by Agent 2 for clients.
13. It is irrelevant for the purposes of this ruling if the client is exempt, or otherwise not liable for payroll tax.

## Ruling History

Revenue Ruling	Issued	Dates of effect	
		From	To
PT 7.0	12 October 2015	12 October 2015	Current



## Employment Agency Contracts – Chain of On-hire Declaration

### Part A – Do you need to complete this form?

<b>What is the purpose of this form?</b>	This declaration is to be used to notify RevenueWA of the liable party in relation to a chain of on-hire arrangement.
<b>Who can complete this form?</b>	<p>This declaration is to be made by the employment agent (Agent 2) who is the closest to the ultimate client who is the end-user of the labour provided by the service provider, and submitted directly to the agent who procures the services of the worker(s) (Agent 1).</p> <p>Agent 1 should keep this declaration for 5 years and be able to readily produce it upon request by RevenueWA.</p>
<b>How do I complete this form?</b>	<p>Please read Revenue Ruling PT 7 ‘Employment Agency Arrangements – Chain of On-hire’.</p> <p>The hard copy of this form must be signed prior to submission to Agent 1.</p> <p>If completing this form by hand, please print neatly in block letters with a black or blue ballpoint pen only. Print ‘X’ in the appropriate boxes.</p>

### Part B – Chain of on-hire details

Legal name of the worker(s)

Legal name and ABN of the agent that has contracted with the worker(s) (Agent 1)

Legal name and ABN of the employment agent that has contracted with Agent 1 and will be further on-hiring the worker(s) (Agent 2 – your details)

Legal name of the client that has contracted with Agent 2 and will be the ultimate end-user of the labour provided by the worker(s)

Agent 2 declares to Agent 1 that:  Agent 2 is liable for payroll tax and will pay the payroll tax liability that arises out of on-hiring the worker(s) to our client

**Part C - Declaration**

I, [name]

being an authorised officer of Agent 2, declare that all the information declared in this statement is true and correct.

Signature

Date (DDMMYYYY)

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Position (if applicable)

Organisation (if applicable)

Phone Number

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**Part D - Lodgment**

Once completed, this form must be lodged with Agent 1. This form should be retained by Agent 1 for 5 years and must be able to be provided to RevenueWA upon request. It is recommended that Agent 2 retains a copy of the completed form for their own records.