

Payroll Tax Form 03

Employment Agency Contracts – Declaration by Exempt Client

www.sro.vic.gov.au

Need help? Contact us.

Phone 13 21 61

Email contact@sro.vic.gov.au

Part A - Do you need to complete this form?

What is the purpose of this form?

This declaration is to be made by the client where the wages paid to the service provider would have been exempt under the **relevant provisions** if they had been paid directly by the client to the service provider as an employee. This exemption does not apply where the client does not pay payroll tax merely because their (the clients) wages are below the payroll tax threshold.

Who can complete this form?

This form should be completed by the Exempt Client and submitted directly to the Employment Agency.

The Employment Agent must keep this declaration for 5 years and be able to readily produce it upon request by the State Revenue Office.

How do I complete this form?

- Please read 'Part H - Additional information' and Revenue Ruling PTA026v2 carefully before completing this form.
- This form can be completed on screen, printed and signed or printed and completed by hand. Either way, the form must be physically signed prior to submission to the Employment Agency.
- 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.
- To reduce paper usage, please submit pages 1-2 only.
- For further clarification (if required), contact the SRO directly on 13 21 61.

Part B – Declarant details

Client name

ABN (if applicable)

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Client address

Suburb/Town

State

Postcode

--	--	--	--	--	--

Email (e.g. johnsmith@domain.com)

Phone number

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Part C – Employment agent details

Employment agent name

Date of contract with client (DDMMYYYY)

--	--	--	--	--	--	--	--

This consent is voluntary and is only to be used to verify your payroll tax exempt status.

☐

I agree to allow the SRO to provide the employment agent with information about our payroll tax exempt status for confirmation purposes.

Part D - Declaration

Name

I,

being an authorised officer of the client named earlier declare that:

☐

the wages paid to the service provider would have been exempt from payroll tax under Part 4 (other than Division 4 or 5 of that Part, Section 50 or clause 16 of Schedule 2) of the Payroll Tax Act 2007 if the service provider had been paid directly by the above named client as an employee.

Signature

Date (DDMMYYYY)

--	--	--	--	--	--	--	--

Position (if applicable)

Organisation (if applicable)

Phone number

--	--	--	--	--	--	--	--	--	--

Part E - Privacy statement

The SRO requires the information on this form to be collected to assist employee agents to determine whether the wages paid to a service provider are exempt. If you do not provide this information, the employee agent may be required to pay payroll tax on your wages. In most cases this form will be retained by the employment agent, and they can tell you how they will manage your personal information. If this information is later provided to the SRO, the information may be used for the purposes of other SRO legislation. Where authorised to do so, the SRO may disclose this information to other government agencies, including the ATO, State and Territory Revenue Offices and law enforcement agencies. You can find out more about how the SRO uses and protects information in the Privacy Policy on www.sro.vic.gov.au. In the event you require access to this information after it has been provided to the SRO, please contact the SRO on 13 21 61.

Part G – Explanatory notes

1. Anti-avoidance

Under the anti-avoidance provisions in section 42 of the Act, the Commissioner of State 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.

2. Division 8 of Part 3

Division 8 of Part 3 of the Payroll Tax Act 2007 (the Act) imposes payroll tax on wages paid by employment agents to staff on-hired under employment agency contracts to a client. Under the Act, such on-hired staff are referred to as 'service providers'.

3. Employment agency contract

An employment agency contract is a contract under which the 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.

4. Employment agent

The employment agent is liable for payroll tax on all payments made to the service provider unless the employment agent has received this declaration from the client (section 40(2) of the Act).

5. Record keeping

The employment agent must keep this declaration for 5 years and be able to readily produce it upon request by the State Revenue Office.

6. Relevant provisions

This declaration is to be made by the client where the wages paid to the service provider would have been exempt under the **relevant provisions** if they had been paid directly by the client to the service provider as an employee. The relevant provisions are Part 4 (other than Division 4 or 5 of that Part, Section 50 or clause 16 of Schedule 2) of the Act – see 'Part H – Additional information'. If the client has received an income tax exemption granted by the Australian Taxation Office, this does not necessarily mean that the client is exempt under Part 4 of the Act. Please read the information overleaf and Revenue Ruling PTA026v2 carefully before completing this form.

Part H – Additional information

Part 4 of the *Payroll Tax Act 2007* provides that wages paid or payable by certain types of employer are exempt from payroll tax. The following employers are exempt for the purposes of this declaration.

Non-profit organisations

1. Wages are exempt wages if they are paid or payable by any of the following:
 - a. a religious institution
 - b. a public benevolent institution (but not including an instrumentality of the State)
 - c. a non-profit organisation having as its sole or dominant purpose a charitable, benevolent, philanthropic or patriotic purposes (but not including a school, an educational institution, an educational company or a State instrumentality).
2. The wages must be paid or payable: for work of a kind ordinarily performed in connection with the religious, charitable, benevolent, philanthropic or patriotic purposes of the institution or body - and to a person engaged exclusively in that kind of work.
3. 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.
4. An educational institution has a *controlling interest* in an educational company if:
 - a. members of the board of management of the company who are entitled to exercise a majority in voting power at meetings of 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
 - b. 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
 - c. the educational institution has power to appoint more than 50% of the members of the board of management of the company.
5. An *educational institution* means an entity that provides education above secondary level.

Schools, school councils and educational services

1. Wages paid or payable by a school to a person in relation to the provision of education within that school are exempt wages.
2. Wages paid or payable by a school council to a person in relation to the provision of education are exempt wages.
3. Wages are exempt wages if they are paid or payable for an educational service that is provided by a person in connection with the curriculum of a school (otherwise than for the purpose of profit or gain to the person or other individuals).
4. School means a school that is a non-Government school within the meaning of the *Education and Training Reform Act 2006* that is registered under that Act, and carried on by a person for no profit or gain to the person or other individuals.
5. *School council* is defined in the *Education and Training Reform Act 2006*.

Health care service providers

1. Wages paid or payable by a health care service provider are exempt wages.
2. 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.
3. A health care service provider is: an ambulance service; a community health centre; a denominational hospital; a multi-purpose service; a non-profit hospital; a public health service; a public hospital; the Victorian Institute of Forensic Mental Health established by section 117B of the *Mental Health Act 1986*.
4. *Ambulance service* means an ambulance service created under section 23 of the *Ambulance Services Act 1986*, and a *community health centre* means an agency registered under Division 2 of Part 3 of the *Health Services Act 1988* and in respect of which a declaration under section 45 of that Act is in force.
5. A denominational hospital means a hospital listed in Schedule 2 to the *Health Services Act 1988*.
6. A multi-purpose service means a body referred to in section 115V(2) of the *Health Services Act 1988*; or a body declared under Part 4A of that Act to be a multi-purpose service.
7. A non-profit hospital means a hospital 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).
8. A public health service means a public health service listed in Schedule 5 to the *Health Services Act 1988*.
9. A public hospital means a hospital listed in Schedule 1 to the *Health Services Act 1988*.

Local Government

1. Wages are exempt wages if they are paid or payable by a municipal council, or a union or partnership of which all the members are municipal councils.
2. Wages are exempt wages if they are paid or payable:
 - a. by a wholly-owned subsidiary (within the meaning of the *Corporations Act*) of a municipal council; and
 - b. to a person for or in connection with an activity that is conducted for the council under a written arrangement between the subsidiary and the council, and the written arrangement must include a provision for the payment by the subsidiary to the council of an amount approximately equivalent to the amount of tax that would be payable by the subsidiary under the Act but for the exemption.
3. The exemption for the above local government organisations does not apply to wages paid or payable for or in connection with - the supply of electricity or gas; water supply; sewerage; quarrying; conduct of ice works; cement pipe manufacture; operation of port and harbour facilities; provision of public transport facilities; or the conduct of abattoirs, public markets, parking stations, cemeteries or crematoria, hostels, an activity prescribed by the regulations; or the construction of any buildings or works, or the installation of plant, machinery or equipment for use in any of the above activities.

Other government and defence

1. 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 members of his or her official staff by a Trade Commissioner representing any other part of the Commonwealth of Nations in Australia, by the Australian-American Fulbright Commission are exempt.

2. Wages paid or payable by a specialized agency are exempt. A specialized agency has the same meaning as in section 1 of the Convention on the Privileges and Immunities of the Specialised Agencies, which was adopted by the General Assembly of the United Nations on the 21 November 1947.
-

Part F - Lodgement

This form can be lodged:

Mail: State Revenue Office
GPO Box 1641
MELBOURNE VIC 3001
or DX 260090 Melbourne VIC

In person: State Revenue Office
Level 2, 121 Exhibition Street, Melbourne
For SRO counter hours, please visit www.sro.vic.gov.au/counter
