



Office of State Revenue
NSW TREASURY

ISO 9001-Quality Certified

Revenue Ruling No. PT 19

Commissions Paid to Insurance Agents

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
PT 19	6 May 1988	1 / 4 / 86	Present	current

Preamble

Section 3A of the Pay-roll Tax Act 1971 provides that payments made under a relevant contract are liable for pay-roll tax. Payments under contracts of service, ie. contracts under which an employer/employee relationship exists, also attract pay-roll tax but not under Section 3A.

Excluded as relevant contracts under Section 3A(1A)(b) are contracts under which a person is supplied with services for or in relation to the procurement of persons desiring to be insured by the person. The exclusion will not apply if the Chief Commissioner determines that the contract was entered into to avoid the payment of tax.

This Ruling considers the situations where the exemption will apply.

Ruling

- 1 The exemption does not apply where the person selling insurance is an employee of the insurer. Amounts paid to insurance canvassers or collectors who are employees as such are included in the definition of wages under Section 3(1) of the Act.
- 2 The exemption will only apply where a principal and agent arrangement exists between the salesperson and the insurer, ie. the agent must be a genuine contractor and not an employee.
- 3 The exemption only applies to commissions from the sale of insurance. Where an agent sells both investment packages and insurance, only those commissions derived from the sale of insurance will be exempt.
Commissions from the investment sales will remain subject to pay-roll tax.
- 4 It is not uncommon for investment packages to be marketed as life insurance policies. The packages contain no genuine insurance component. A common example is "insurance bonds", which often represent an investment for a set term. Commissions from the sale of these packages will not qualify for the exemption. In short, unless the commissions are derived from the sale of a product which is purely insurance, the exemption will not apply.

CONCLUSION

5 The exemption provided for under Section 3A(1A)(b) will only apply if:

- (a) an employee/employer relationship does not exist between the insurer and the salesperson; and
- (b) the product marketed represents only insurance.

R P Daley

for Chief Commissioner of Pay-Roll Tax
6 May 1988.