



Office of State Revenue
NSW TREASURY

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Revenue Ruling No. PT 6

Section 3A - Relevant Contracts - Part IVA - Grouping Provisions

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
PT 6	2 September 1986	1 / 4 / 86	Present	Current

Preamble

With the introduction of Section 3A of the Pay-roll Tax Act, amounts, paid or payable, by an employer for, or in relation to, the performance of work relating to **relevant contracts**, are deemed to be wages for payroll tax purposes. Where another person is liable to make a payment for, or in relation to, that work, that person is not liable for pay-roll tax in respect of that payment - Section 3A(5)(b).

The question now arises as to the application of Part IVA of the Act relating to the **grouping of employers** and more particularly, to the application of Section 16C¹ where employees are used in another business.

Ruling

- 1 The grouping provisions of the Act will still be applied where appropriate.
- 2 It may well be, however, that as a result of Section 3A(5)(b) employers who previously paid taxable wages may no longer have a pay-roll tax liability and application of the grouping provisions would not be appropriate.
- 3 This is best explained by example. Let us presume that, A Pty Ltd pays B Pty Ltd an amount of \$50,000 for or in relation to the performance of work. That work is performed by B who is the only employee of B Pty Ltd and B receives as wages, \$30,000.
- 4 Before the introduction of Section 3A, only the payment to B of \$30,000, would have attracted payroll tax. As this would have represented the total wages paid by B Pty Ltd, the company would have been under the taxable threshold of \$200,000 but the companies of A Pty Ltd and B Pty Ltd would have been grouped under Section 16C of the Act (employee used in another business).
- 5 With the introduction of Section 3A, the payment from A Pty Ltd to B Pty Ltd of \$50,000 attracts payroll tax - presuming, of course, that the contract is relevant. Section 3A(5)(b) would, however, render the payment to B from B Pty Ltd not liable as the payment is made by another person but relates to "that work".
- 6 In these circumstances, the grouping of A Pty Ltd with B Pty Ltd would not be appropriate as B Pty Ltd has no taxable wages.

¹ From 1 July 2003, Section 16C was removed from the Pay-roll Tax Act and placed in the Taxation Administration Act 1996 at Section 106H

- 7 It could happen, however, that Section 3A(5)(b) may apply to part only of the wages paid by an employer. In these circumstances employers would still be grouped, where appropriate, in relation to those wages that do attract a liability.
- 8 In the example above, if B Pty Ltd paid wages to employees other than B, A Pty Ltd could still be grouped with B Pty Ltd notwithstanding the fact that the services provided by B to A Pty Ltd stand as the only reason to group the two companies.
- 9 Another situation may arise where, once again, using the example above, the contract between A Pty Ltd and B Pty Ltd is not a relevant contract by virtue of one of the provisions of Section 3A(1)(d) to (e) and thereby does not attract pay-roll tax. In these circumstances, the payment to B (\$30,000) would not be subject to Section 3A(5)(b) and the grouping provisions could be applied. This principle would, of course, apply to employers grouped under any of the provisions of Part IVA.
- 10 To summarise, the grouping provisions of the Pay-roll Tax Act are not affected by the introduction of Section 3A but in some cases where Section 3A(5)(b) renders the total wages of an employer not liable for pay-roll tax, it may not be appropriate to apply Part IVA.

A D Clyne,
Chief Commissioner of Pay-roll Tax.
2 September 1986