



COMMISSIONER'S PRACTICE PT 3.0

PAY-ROLL TAX – COMMENCEMENT DATE OF AN EXEMPTION FROM LIABILITY GRANTED TO A CHARITABLE BODY OR ORGANISATION

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
PT 3.0	11 December 2012	11 December 2012	9 March 2015

This Commissioner's practice explains the commencement date that will generally be applied to an exemption from liability to pay-roll tax that is granted by the Commissioner to a charitable body or organisation under the provisions of the *Pay-roll Tax Assessment Act 2002* ('PTA Act').

The practice applies to applications for exemption received on or after 11 December 2012.

Background

Pursuant to section 41(1) of the PTA Act, a charitable body or organisation may apply to the Commissioner for exemption from liability to pay-roll tax.

Section 41(2) of the PTA Act then provides that the Commissioner may, by giving notice to the charitable body or organisation, exempt it from liability to pay-roll tax.

Pursuant to section 41(4) of the PTA Act, the exemption comes into operation on the day specified in the notice. This day may be the day on which the notice is given, or an earlier or later day.

The *Taxation Administration Act 2003* ('TAA') defines an assessment as including a self-assessment. Section 14 of the TAA describes a self-assessment as an assessment made by a taxpayer in a return, or made by a responsible party in a return or in accordance with a special tax return arrangement.

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Where an exemption is granted to a charitable body or organisation, the body or organisation may apply for a reassessment in respect of any self-assessments it has made after the day the exemption comes into operation. Section 16(2)(b) of the TAA provides the authority for the Commissioner to make such a reassessment.

Section 54(1)(a) of the TAA requires the Commissioner to refund tax to a taxpayer if, as a result of a reassessment, it appears that an overpayment of tax has been made.

Section 15(3) of the TAA provides that the Commissioner may make an official assessment on his or her own initiative, even where a taxpayer is required to make, or has made, a self-assessment.

Commissioner's Practice

Registered charitable body

1. A charitable body or organisation that is registered as an employer under the provisions of the PTA Act and making self-assessments of pay-roll tax may apply at any time to the Commissioner for exemption from liability to pay-roll tax pursuant to section 41(1) of the PTA Act.
2. The making and granting of an application for exemption does not, on its own, support any contention that any previous self-assessments were invalid or incorrect at the time they were made.
3. Where a charitable body or organisation that is registered as an employer under the provisions of the PTA Act is granted an exemption from liability to pay-roll tax, the exemption will come into operation on the first day of July in the assessment year in which the application for exemption is received.

Unregistered charitable body

4. The TAA imposes no retrospective time limit on the Commissioner's authority to make an original assessment. Where an unregistered employer is found to have had a liability to pay-roll tax, that employer may therefore potentially be assessed for the entire period that liability can be established.
5. However, pursuant to Commissioner's Practice TAA 16 - Certain Assessment and Reassessment Time Limits, providing there has been no deliberate evasion of tax or provision of false or misleading information, assessments of pay-roll tax are limited to the five financial years before the 'contact year'. The contact year is the financial year in which either the employer notifies the Commissioner of its liability, or in which the Commissioner commences an investigation into the employer and as a result of which a liability is established.

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6. Where a body or organisation that has not been registered as an employer under the provisions of the PTA Act is, upon registration, granted an exemption from liability to pay-roll tax on the basis of being charitable, the exemption will apply from the beginning of the first of the five financial years referred to in paragraph 5, or the beginning of the financial year in which the body or organisation became charitable, whichever is the later.

Date of Effect

This Commissioner's practice takes effect from 11 December 2012.

Bill Sullivan
COMMISSIONER OF STATE REVENUE

11 December 2012