

From: [Mark Diamond](#)
To: [Portfolio Committee 1](#)
Cc: [Ravindra Naidoo](#); [Andrew Rider](#); [Sharee Adlam](#); [David Norman](#)
Subject: CM: Re: Application of the contractor and employment agent provisions in the Payroll Tax Act 2007 – Post-hearing responses – 21 March 2025
Date: Tuesday, 29 April 2025 11:59:06 AM
Attachments: [image001.png](#)

Dear Lauren,

Further to your email of 9 April last and the questions contained therein I am instructed by Quad Services to respond on behalf of the company as follows (answers to questions are shown in blue):

1. What communications (including letters, emails and meetings) have you had with NSW Government Ministers and/or Ministerial staff on payroll tax issues since 2017?

No communications have been had with any NSW Government Ministers and/or Ministerial staff on payroll tax issues. All communications, excluding internal discussions and discussions with legal advisors, have been limited to representatives of Revenue NSW.

Specifically

- We requested a meeting with the Chief Commissioner in late 2024, and this was rejected, and we were advised to contact the objections unit of Revenue NSW.
- We have had no communication from Revenue NSW or the NSW ministerial staff advising of their change in interpretation of the Act and their intention to apply the employment agency interpretation to our subcontractors. Such a major change in interpretation should have been loudly communicated to the business community with a date from when the changes would occur. We had no such warning or advice.
- Timeline of interactions with **Revenue NSW** are as below.
 1. **In early 2022, a payroll tax audit** was commenced, and all information was submitted **in early 2022**, as requested.
 2. **13/12/2022** - It was in December 2022 (well after we had submitted the audit information) we received an email from the Revenue NSW auditor indicating that she was looking at the alternatives of Contractor (Division 7) or Employment agents (Division 8) provisions of the Act. **Revenue NSW indicated** that the investigation was ongoing. **This email was the first time Revenue NSW indicated it was looking at issuing assessments under the employment agency in relation to us.**
 3. **7/2/2023** - We replied to **Revenue NSW** via email seeking for clarity on this.
 4. No response was received
 5. **29/1/2024** - We received an email from **Revenue NSW** relating to a change in the Auditor and acknowledgement that we were still waiting on clarity to the employment agency question. No answer was provided.
 6. **11/9/2024** - Preliminary findings were received from **Revenue NSW** showing that employment agency provision was applicable.

7. 30/9/2024 - Final findings received from **Revenue NSW** indicating not only a retrospective assessment **under the employment agency provisions**, but also a 25% penalty and interest were applied to the now determined “shortfall in tax payments”.

As you can see, while this was raised as a possible interpretation in 2022, we requested **confirmation from Revenue NSW** on whether employment agency or contractor provisions applied, and they did not respond, which indicates that prior to September 2024 that they did not know themselves, and certainly did not communicate to Quad. If they could not respond to our enquiry in early 2023, how can they retrospectively apply employment agency provisions to 5 years earlier?

2. Please describe the employment relationships or contract relationships in each tier of your subcontracting chain.

Subcontractor companies provide a quote for provision of cleaning service at a site.

- They provide all labour, equipment, materials and supervision of labour to provide an agreed end result.
- Our relationship with the subcontractor company is about providing an agreed end result, not about providing labour.
- Our managers inspect the sites to review compliance with contractual specifications:
- Our managers, not the subcontractor, liaise with the client contacts.
- Neither our managers nor our clients manage /select /organise the subcontractor company's staff.
- Our clients do not direct/interact with the subcontractor company. Much cleaning work is done in the evening, and often the clients have no interaction with the cleaners.
- This has no similarity to an employment agency arrangement where an agent company provides staff for a client to use/direct/organise. The only area of overlap is that the cleaning occurs at the client premises.

Quad has a set of requirements that any potential subcontractor company must satisfy before they will be engaged. Our Compliance team ensures that our requirements are satisfied for approved subcontractor companies to continue with Quad. Any subcontractor company that is deemed suitable for work must:

- Complete the Quad Subcontractor Registration process, which includes our requirements, e.g. provision of public liability insurance and workers compensation certificates of currency, ASIC extracts, etc.
- Sign a Contract with Quad.
- Submit a Monthly Declaration on compliance with work health and safety requirements, e.g. signing of the risk and environmental management plans, PPE, incident reporting, etc.
- Submit a Quarterly Declaration on compliance with all statutory requirements, relating to payment of all moneys due to employees; payment of workers compensation premiums, and meeting their payroll tax obligations.

3. Please provide details of the number of staff you directly employ, in what role and under what industrial instrument they are paid.

- Currently we have 367 directly employed by Quad in NSW. 286 of these are cleaners and 81 administrative and management staff
- All cleaning staff employed in NSW are engaged under the Cleaning Services Award 2020.
- All other staff employed in NSW, i.e. administrative and managerial staff, are engaged as permanent contract-based employment

4. Please provide details of the number and size of the contractors you undertake to complete work for your clients.

- For the last completed financial year (July 2023 - June 2024) 102 subcontractor companies provided services to locations in NSW for Quad. This number includes specialist contractors providing ad hoc one-off non regular services. All subcontractors provide work to other companies as well as Quad, so they are bona fide contractors.
- 92% of the subcontracted work was performed by 39 contractor companies, each with a minimum annual payment of \$250K from Quad alone for the year. These are all significant companies in their own right.

5. Do you audit your subcontractors to determine if they are paying payroll tax?

We do not undertake formal audits of our subcontractor companies specifically for payroll tax compliance. However, as part of our contractor engagement and management processes, we require our subcontractor companies to comply with all relevant legislative obligations, including payroll tax where applicable. We expect our subcontractor companies to manage their tax obligations appropriately and reserve the right to request evidence of compliance where necessary.

We have no directions or advice from Revenue NSW that this was an activity they required from us.

Questions taken on Notice

The Hon Damien Tudehope:

If the law is not changed what is the impact in terms of the cost of the provision of services by your company under the contracts that you have entered into?

For current contracts where we are using subcontractors the impact on the cost would be at least 5.45%. The reality is that we are not able to absorb the entire cost and this has the potential to make some contracts unviable.

Given the very small margins that the cleaning industry operates on, and the highly competitive market, we would have to be very cautious in how we passed on these additional costs. Cleaning contracts are very price sensitive. As a minimum, for all new contracts we are effectively adding 5% to cover the costs where subcontractors would be used. For current contracts, we are assessing them on a case-by-case basis. Any blanket increase in price will jeopardise the contracts and is not a commercial option.

Dealing with this increase in operating costs is a challenge that will take time but can be worked through. The major impact on our organisation is the retrospective application of this new employment agency interpretation for 5 years and the consequent application of penalties and interest. We would like to see absolute clarity on the situations where these agency interpretations apply, and a date set from when this new agency interpretation would be applied to give the industry time to plan and adjust to this changed statutory environment.

The Hon Sarah Kane:

How many cleaners do you directly employ. How many are contracted. How big are the contractors?

- In NSW, Quad currently has **286 directly employed cleaners** and has utilised the services of 102 subcontractor companies in NSW last financial year. We have no relationship with the employees of our subcontractor companies and would not know the number of employees engaged by them. As a ballpark figure, we would estimate that the subcontractor companies engage a total of between 1000 and 1500 cleaners on contracts they have with Quad in NSW.
- 92% of the subcontracted work was performed by 39 of these subcontractor companies, each with a minimum annual payment of \$250K from Quad alone for the year. These are all significant companies in their own right.

The Hon Sarah Kane:

Have you got any sense of the demographics of the cleaning workforce both within Quad's directly employed workers and within the subcontracting workforce?

The demographics of Quad's directly employed cleaners is:

- 986 direct employees Nationally, 37% of which is in NSW
- 50% Female, 50% Male
- 37% Full time, 52% part time, 11% casual
- Age breakdown as per below
- Work rights breakdown as per below
- Nationality breakdown as per below

Age Bracket	Count	%
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18 - 24	111	11%
25 - 34	294	30%
35 - 44	183	19%
45 -54	172	17%
55 - 64	164	17%
65 +	62	6%

Work rights	Count	%
Australian Citizen / Permanent resident	471	48%
Bridging Visa	120	12%
Student Visa	260	26%
Other Visa	135	14%

Nationality	Count	%
Australian	451	45.74%
Nepalese	128	12.98%
Bhutanese	67	6.80%
Bangladeshi	62	6.29%
Colombian	60	6.09%
Indian	42	4.26%
Sri Lankan	35	3.55%
Filipino	22	2.23%
New Zealander	18	1.83%
Pakistani	10	1.01%
Other	91	9.23%

We do not have any involvement with our subcontractors' staff and will not be able to provide such information on their staff.

Regards

Mark Diamond
Principal

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