

Summary of Security Industry position presented at Payroll Tax hearing 16 December 2025

The security industry seeks clarity, consistency, and fairness in the application of the legislation that is in line with its proper legislative intention. A proper application will ensure licensed security service providers have legal certainty and are not subjected to retrospective and significant financial detriment, arising from flawed or inconsistent interpretations adopted by Revenue NSW.

We ask the Committee to review whether Revenue NSW is applying an accurate and lawful interpretation of the term “employment agent” as intended by Parliament in section 37 of the Act, and specifically as defined by section 37(2).

When properly construed, contracts between licensed protective service providers (the security principal) and their clients, where the security principal engages subcontractors to work on the client site, do not constitute employment agency arrangements.

Security principals using subcontractors are not supplying labour in the manner contemplated by the Act. They use subcontractor employees, but those employees are not working “in and for the business of the client” but rather providing regulated security services at the direction of and for the Security Principal.

These regulated security services are performed by the security principal’s employees and employees of subcontractors, under the own operational control and supervision of the security principal, and under a statutory licensing framework.

RECOMMENDATIONS

Accordingly, we respectfully request that the Committee consider the following recommendations:

1. **Suspend all Revenue NSW assessments on companies, that are based on the so-called employment agent argument, until this committee has provided its recommendations, and those recommendations have been acted on:**

2. **Suspend all Revenue NSW assessments on Security Industry companies, that are based on the so-called employment agent argument, until:**
 - *The 2025 Nova Security case appeal has been settled, noting of course Revenue NSW is the one appealing having lost the argument already.*
 - *It is a waste of time and money for all, that Revenue NSW ploughs ahead with more multi-million dollar assessments against companies in the Security industry, while this appeal may well provide the clarity we all seek?*

3. **Eliminate retrospectivity of all payroll tax assessments.**

- 4. Eliminate what is blatant double dipping by revenue New South Wales via the current employment agency payroll tax assessments.**
 - *The fact is in most cases, - if not all, the subcontractor has already paid payroll tax for its employees.*
 - *Revenue NSW are deliberately and knowingly ignoring this fact, therefore doubling up payroll tax collection for the same employee.*

- 5. Ensure Revenue NSW “employment agency” based payroll tax assessments, look at what actual relationship and operational connection exists between the company, the subcontracted security officer and the client.**
 - *Currently Revenue NSW are simply and incorrectly just looking only at the contract between the company and the client.*
 - *Like the courts do, Revenue NSW should make genuine efforts to determine whether there is truly a situation where subcontractors are working “in and for the client’s business”.*

- 6. Ensure Revenue NSW “employment agency” based payroll tax assessments are for the wages costs, not calculated simply on the total invoice value of subcontractors.**
 - *Revenue New South Wales should be taking the position that section 40 in the legislation only allows them to assess payroll tax on wages. However, they are pursuing total subcontractor fees which includes costs far exceeding wages alone, including non-labour costs and profit margin. Their interpretation is clearly inconsistent with the plain meaning and intent of s40(1)(a), that only the wages for the services should be assessed.*

- 7. Remove the security industry from employment agency-based assessments.**
 - *As per the reasoning in the E Group Security decision, the security industry should be removed from such assessments, other than for cases of fraud or where there is a scheme to pyramid subcontract to avoid any payroll tax being paid.*

Conclusion.

The industry seeks a regulatory environment that is predictable, lawful, and fair, and which supports compliance rather than penalising lawful licensed operators for interpretations that depart from both legislative intent and established judicial authority.

As a member association, ASIAL is firmly committed to its members being compliant with all applicable laws, transparent in commercial dealings, and providing the protection of public safety.

The industry does not condone tax avoidance, nor does it support any breach of statutory obligations. Any members who do not meet these standards will, through lawful process under our constitution, be removed from membership. We do not have any regulatory power. Security Licensing and Enforcement Directorate NSW has the power to disqualify companies from holding security licenses.