

**INQUIRY INTO APPLICATION OF THE CONTRACTOR  
AND EMPLOYMENT AGENT PROVISIONS IN THE  
PAYROLL TAX ACT 2007**

**Name:** Name suppressed  
**Date Received:** 7 February 2025

---

Partially  
Confidential

## **Submission: Exclusion of Contractors from Payroll Tax Liability**

### **Introduction**

This submission presents a case for the exclusion of independent contractors involved in the direct selling channel from payroll tax liability. Applying payroll tax affects direct selling companies and many thousands of ordinary Australians who use the channel for income generation. A recent Deloitte Access Economics study shows the socio-economic contribution direct selling makes in Australia. Independent salespersons in direct selling are small and micro-businesspeople, about 90% of whom are women and 62% are in the lowest half of socio-economic status, seeking supplementary income for their families and flexibility in the way they earn this income. This submission outlines key reasons why contractors should not be included in payroll tax calculations.

### **1. Misclassification of Contractors: Key Challenges**

One of the primary concerns under this category is the **misclassification of independent contractors**, which impacts payroll tax obligations. The key challenges include:

- **Flexible Hours:** Independent contractors often have the flexibility to set their own schedules, working hours can vary, and many only need to work a few hours each week. This makes it a viable option for those seeking more control over their time. As a result, it is not possible to ascertain the number of hours an independent contractor works over certain time periods.
- **Couples Working Together:** Husband-and-wife teams can be common in independent contracting, where both partners contribute to the success of the business, possibly sharing roles or responsibilities., all under the same contract.
- **High-earning independent contractors** primarily earn residual income, with their main activity being the purchase of products for personal consumption.

### **Distinction Between Employees and Contractors**

Contractors operate independently, often managing multiple clients and assuming business risks, including insurance, superannuation, and compliance costs. Unlike employees, they are not under direct control of the hiring entity and do not receive employee benefits. Including them in payroll tax calculations disregards this fundamental distinction, effectively misclassifying their engagement.

### **2. Economic Impact on Businesses**

Many businesses, particularly in industries reliant on project-based work, engage contractors to maintain flexibility and competitiveness. Subjecting contractor payments to payroll tax:

- Increases operational costs, discouraging the use of contractors.
- Disincentivizes businesses from engaging specialized expertise on an as-needed basis.
- Creates a financial strain on small and medium enterprises (SMEs), limiting their ability to grow and innovate.

In essence, payroll tax is a barrier to productivity as it discourages business from hiring staff and expanding their business.

### **3. Encouraging Business Flexibility and Innovation**

Many industries, particularly in technology, construction, and consulting, rely on a fluid workforce model. Contractors enable businesses to scale operations up or down based on demand, ensuring adaptability in a dynamic economic environment. Payroll tax on contractors disincentivizes this flexibility, potentially stifling innovation and limiting job opportunities.

### **4. Administrative Complexity and Compliance Burden**

Expanding payroll tax obligations to include contractors increases compliance complexity for businesses. Employers must determine whether a contractor falls under payroll tax provisions, creating uncertainty and administrative costs. This complexity disproportionately impacts SMEs, which may lack dedicated payroll resources.

### **5. International Competitiveness**

Many areas with competitive tax regimes do not impose payroll tax on contractor payments. Subjecting contractors to payroll tax places businesses operating in [your area] at a disadvantage, discouraging investment and reducing the ability to attract and retain talent. We are rapidly becoming less attractive to outside investors as doing business in Australia continues to grow more challenging.

### **Impact to our Business**

From our business perspective we anticipate the following

The 3-year average exposure to our company would be a minimum **\$30,460** per annum.

Resulting in a minimum exposure of **\$153,200** over 5 years.

In addition to this we can see the process would require the company to gather additional data, conduct analysis, and collaborate with independent contractors to better understand their income sources.

This additional administrative burden would necessitate additional workforce, leading to increased costs for the company, including the need to hire extra staff.

The estimated fiscal impact of this would be at the very least **\$25,000 per annum**.

Given the size of our business (even allowing for growth possibilities) and the increase in the cost of doing business we would have to consider the need to outsource the roles offshore.

### **Conclusion and Recommendation**

It is important to remember that the introduction of the GST in 2000 aimed to simplify the tax system, including to phase out state taxes like payroll tax. However, this transition was never fully implemented, leaving payroll tax as a key revenue source for state governments (alongside property and stamp duties). and although payroll tax was intended to be harmonized across Australia, inconsistencies remain. States and territories have varying tax rates, payroll thresholds, and legislative frameworks, such as differences in contractor exemptions in the ACT. This adds to burden and causes confusion and even more challenges. This growing tax

burden is ever increasing and threatening the viability of small businesses as it is likely to impact customers through reduced competition and higher costs.

We urge you to reconsider the scope of payroll tax and align it with principles that promote a fair, competitive, and sustainable business environment through:

- Tax Reform to abolish payroll tax as was the original plan when GST was introduced.
- Re-introduction of the Door to Door Selling Exemption that covers the direct selling channel (this was removed in 2015) in the interim.

Thank you.