

PRODUCT RULING – BR PRD 16/01

This is a product ruling made under s 91F of the Tax Administration Act 1994.

Name of the Person who applied for the Ruling

This Ruling has been applied for by PMP Distribution Limited (PMP Distribution).

Taxation Laws

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

This Ruling applies in respect of:

- ss DA 2, RA 5, RD 5, RD 7, and RD 8; and
- s 6 of the Goods and Services Tax Act 1985 (GST Act).

The Arrangement to which this Ruling applies

The Arrangement is the engagement of deliverers by PMP Distribution pursuant to a **Deliverers' Handbook and Contract (the Contract) for the delivery of unaddressed** newspapers, leaflets, brochures, catalogues, advertising material, samples and other similar items to households and other premises throughout New Zealand.

Further details of the Arrangement are set out in the paragraphs below.

1. PMP Distribution carries on the business of distributing newspapers, leaflets, brochures, catalogues, advertising material, samples and other similar items to households and other premises throughout New Zealand.
2. PMP Distribution only distributes unaddressed mail. PMP Distribution is not **registered as a "postal operator" under the Postal Services Act 1998**, as it is not **involved in the carriage of "letters" (as defined in that Act) or addressed mail**.
3. PMP Distribution engages the deliverers pursuant to the Contract, which includes a **deliverers' handbook and conditions that the deliverers agree to abide by**. The main terms of the Contract are summarised below.

4. **Under the heading "Job Description", the Contract requires** the deliverer to deliver product as provided by PMP Distribution on a pre-agreed schedule to private addresses, and the parties acknowledge that the deliverer is an independent contractor and not an agent or employee of PMP Distribution.
5. Under the heading **"Payment", the Contract states that the deliverer is solely** responsible for his/her own ACC levies, income tax liabilities and GST liabilities. The deliverer also acknowledges that the Contract is not a contract of employment governed by the Employment Relations Act 2000.
6. **Under the heading "Delivery Payment Rates", the Contract stipulates standard** minimum rates based on the number of items delivered, type of item and weight.
7. **Under the heading "Reduction/Variation of Workload", the Contract states that** due to the nature of PMP Distribution's business, the distribution of regular publications may cease without notice, and that the volume and timing of work may vary.
8. **Under the heading "Performance of Services", the Contract states that:**
 - the deliverer may sub-contract the services or otherwise engage or obtain assistance from others in the performance of the services;
 - the deliverer may provide and use (at the deliverer's cost, expense and risk) a car, trailer, trolley or other carrying equipment, and that scooters and motorcycles are also acceptable;
 - the deliverer is an independent contractor, and is therefore free to select their own means and methods of performing the services and the hours during which they will perform those services, subject to the delivery window requested by PMP Distribution; and
 - the deliverer is responsible/liable for all errors, omissions, loss or damage that **are the deliverer's responsibility.**
9. **Under the heading "Termination", the Contract states that either party may** terminate the agreement by giving 14 days' notice in writing, and that PMP Distribution may terminate immediately if there has been a serious breach.
10. The **deliverers'** handbook part of the Contract provides the following information to deliverers:
 - which houses to deliver to and how to deliver circulars;
 - when deliveries are to be done and what the regular delivery days are;
 - getting the correct number of circulars;
 - what to do in the event of absence;
 - reporting injuries and other problems with deliveries to supervisors;
 - dealing with dog issues and interference with delivered material;

- completing an ACC form in the case of injury (the handbook reiterates that deliverers are self-employed, and states that PMP Distribution should not be entered as an employer on an ACC form);
- disposing of excess circulars;
- delivering during daylight and taking care crossing roads; and
- health and safety procedures.

11. The Contract will remain materially the same as the version provided to Inland Revenue on 25 September 2015.

How the Taxation Laws apply to the Arrangement

The Taxation Laws apply to the Arrangement as follows:

- a) For the purposes of the "PAYE rules", any payment PMP Distribution makes to a deliverer under the Contract will not be "salary or wages" or "extra pay" or a "schedular payment" within the meaning of those terms as defined in ss RD 5, RD 7 and RD 8 respectively.
- b) PMP Distribution is not required to withhold tax from payments made to deliverers under the Contract under s RA 5(1)(a).
- c) For the purposes of section DA 2(4), any payment PMP Distribution makes to a deliverer under the Contract will not be "income from employment".
- d) For the purposes of the GST Act, the provision of services by any deliverer under the Contract will not be excluded from the definition of "taxable activity" in s 6(1), by s 6(3)(b).

The period or income year for which this Ruling applies

This Ruling will apply for the period beginning on 1 July 2014 and ending on 30 June 2019.

This Ruling is signed by me on the 1st day of March 2016.

Howard Davis

Director (Taxpayer Rulings)