

**RULINGS > PRODUCT****Reach Media New Zealand Limited**

Issued: 23 March 2022

**BR Prd 22/06**

The Arrangement is the engagement of drivers by Reach Media to transport unaddressed mail (newspapers, circulars, leaflets, brochures, catalogues, advertising material, samples and other such items) from Reach Media's premises to pre-determined drop-off locations.

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

1. For the purposes of the PAYE rules, any payment made to a Driver by Reach Media 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, respectively, ss RD 5, RD 7 and RD 8 of the Income Tax Act 2007.
2. For the purpose of s DA 2(4) of the Income Tax Act 2007, any payment made to a Driver by Reach Media under the Contract will not be "income from employment".
3. For the purposes of the Goods and Services Tax Act 1985, the provision of services by any Driver under the Contract will not be excluded from the definition of "taxable activity" (in s 6 of the Goods and Services Tax Act 1985) by s 6(3)(b) of the Goods and Services Tax Act 1985.

**START DATE – END DATE**

1/7/2021 – 30/6/2026

(THIS TITLE PAGE DOES NOT FORM PART OF THE RULING.)

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## Product Ruling – BR Prd 22/06

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

### Name of person who applied for the Ruling

This Ruling has been applied for by Reach Media New Zealand Limited (Reach Media).

### Taxation Laws

This Ruling applies in respect of:

- the definitions of “extra pay”, “income from employment”, “PAYE rules”, “salary or wages” and “schedular payment” in the Income Tax Act 2007;
- s DA 2(4) of the Income Tax Act 2007; and
- s 6(3)(b) of the Goods and Services Tax Act 1985.

### The Arrangement to which this Ruling applies

The Arrangement is the engagement of people (Drivers) by Reach Media to transport unaddressed mail (newspapers, circulars, leaflets, brochures, catalogues, advertising material, samples and other such items) from Reach Media’s premises to pre-determined drop-off locations.

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

- 1) The Parties to the Arrangement are:
  - a) Reach Media: a New Zealand incorporated company that carries on the business of delivering unaddressed mail to New Zealand households; and
  - b) Drivers: people who use their own vehicles to transport the unaddressed mail from Reach Media’s premises to pre-determined drop-off locations.
- 2) Reach Media also contracts with, although they are not technically parties to the Arrangement:
  - a) Distributors: people who physically deliver the unaddressed mail from the drop-off locations to households and other premises throughout New Zealand; and

- b) Supervisors: people who are or are to be contracted by Reach Media to provide certain supervisory services in metropolitan or rural areas in relation to the delivery of unaddressed mail.
- 3) Drivers will not be carrying any item that requires Reach Media to be registered as a postal operator under the Postal Services Act 1998.
  - 4) Reach Media is run by a management team based in Auckland with processing branches throughout the country. Unaddressed mail is delivered by a network of Distributors, Drivers and Supervisors.
  - 5) Reach Media's processes and systems align with industry practice. The industry uses a delivery model of supervisors who co-ordinate the activities of a team of distributors. The Drivers, Distributors and Supervisors are paid on a "piece rate" basis under Contracts for Services (that is, as independent contractors).
  - 6) The Drivers are engaged under a standard form contract for the transportation of unaddressed mail from Reach Media's premises to several predetermined drop-off locations (Contract). The Contract refers to a health and safety manual (Manual) that the Drivers are instructed to also consult.
  - 7) Specific procedural details referred to the Contract are also provided in specific delivery instructions (Delivery Instructions) given to the Drivers before each job.
  - 8) The Manual does not replace or override any of the material terms of the Contract, and it does not affect the nature of the contractual relationship between Reach Media and the Drivers.
  - 9) The terms of the Contract under various headings are as follows.
  - 10) Under the heading "Services", the Contract requires the Drivers to:
    - complete the services set out in Schedule 1 of the Contract;
    - ensure other business commitments do not affect their obligations to Reach Media; and
    - familiarise themselves and fully comply with the Manual (including amendments) and any applicable legislation, including that related to tax and health and safety.
  - 11) Schedule 1 of the Contract requires Drivers to collect particular items within a specified period from Reach Media's premises and transport those items to pre-determined drop-off locations.
  - 12) Schedule 1 of the Contract states that the services to be performed are the:

- collection of unaddressed mail plus delivery notifications for drop off to a defined set of Distributors from one of Reach Media's nominated premises on the day before the commencement of the delivery window;
  - physical delivery of unaddressed mail to be delivered by Distributors to nominated individual distributor drop-off points in the quantities specified in the delivery notifications; and
  - physical return of surplus stock to the nominated Reach Media processing site.
- 13) Under the heading "Equipment", the Contract states that Drivers are responsible for providing their own equipment (such as personal office supplies, a telephone, a vehicle and wet weather gear) at their own expense. Drivers are also responsible for ensuring such equipment is well maintained, safe and fit for its purpose.
- 14) The Contract sets out Drivers' obligations regarding the safe and legal operation of any vehicle used to provide the Services. The Contract also states that Drivers must have and maintain at their own cost and expense adequate public liability insurance (on terms agreed by Reach Media) and comprehensive motor vehicle insurance.
- 15) Under the heading "Payment", the fees are the only amounts payable in respect of the services and are inclusive of all taxes (except GST) and other duties and levies. Each Driver's fee for undertaking the services for Reach Media is calculated under Schedule 2 of the Contract at a rate determined by the volume of deliveries. The Contract specifies that Reach Media will provide a "buyer-created tax invoice" to each Driver. The Driver must not send an invoice to Reach Media. Drivers must check the invoice and advise Reach Media of any errors. Payment is made by direct credit within seven days. The implication of these provisions is that Reach Media will provide an invoice to Drivers (which takes the form of a buyer-created tax invoice for GST-registered Drivers or a similar invoice for Drivers who are not GST registered) before payment, with payment made fortnightly.
- 16) Schedule 3 of the Contract requires Drivers to provide to Reach Media their personal details, bank details and, if they are GST registered, their Inland Revenue number.
- 17) Under the heading "Taxation", the Contract states that the Drivers will register for GST with Inland Revenue if required to do so and provides the current registration threshold. The Contract specifies that:
- Drivers are responsible for the payment of their own taxes on payments made to them by Reach Media under the Contract;
  - Reach Media may be required to withhold taxes from its payments; and if so
  - the payment made will be reduced to the extent that tax is withheld.

If Reach Media wrongly fails to withhold tax from payments made to the Driver, it will be entitled to recover such amounts from the Driver.

- 18) Under the heading "Termination of Contract", the Contract states that Reach Media or the Drivers may terminate the Contract for any reasons whatsoever by giving four weeks' notice in writing. However, if Reach Media believes there has been a serious breach of the Contract, then Reach Media may terminate the Contract immediately without notice. Under the Contract, Reach Media may also terminate the Contract for a serious breach of the Manual (including amendments).
- 19) Under the heading "Status of Contractor", the Contract defines the contractor's status as follows:
  - The Driver is engaged by Reach Media under a Contract for Services, which means they are an independent contractor. The terms of the Contract or its operation do not create an employment relationship between the Driver and Reach Media.
  - The Driver is free to accept other engagements or work while they are engaged by Reach Media. However, the Driver agrees not to undertake other work that does or may conflict with the interests of Reach Media.
- 20) Under the heading "No Liability", the Contract states that the Driver is to undertake the services at their own risk. This means Reach Media will not be liable to the Driver (or any other person) for any loss resulting from the Driver's deliberate actions or negligence or where any term of this contract or the Manual (including amendments) is breached. The Driver agrees to indemnify Reach Media against any direct, indirect or consequential injury, loss or damage that Reach Media may suffer as a result of any breach by the Driver of the Contract or arising out of an act, default or omission or any representation made by the Driver. This indemnity will continue to apply after termination of the Contract.
- 21) Under the heading "Delivery Options", the Contract states the following:
  - It is the Driver's responsibility to carry out the Services as required under the Contract.
  - The Driver is responsible for arranging for someone else to carry out the services if the Driver is unable to work. When they do this, the Driver is solely responsible for payment and all other obligations to others who help them in this way.
- 22) Under the heading "Frequency of Deliveries", the Contract states that Reach Media does not guarantee any minimum amount of unaddressed mail for which the Driver

will carry out the Services. The volume of unaddressed mail available for distribution will vary depending on the time of year and the needs of Reach Media's clients.

## Conditions stipulated by the Commissioner

This Ruling is made subject to the following conditions:

- (a) The terms of the Contract entered into between Reach Media and the Drivers are the same as those contained in the Contract provided to Inland Revenue in the Ruling Application dated 15 July 2021, except in relation to immaterial details such as fees, rates, frequency of invoices, defined areas, names and addresses that are in the Manual or specific Delivery Instructions.
- (b) The relationship between Reach Media and any of the Drivers is, and during the period of this Ruling will apply, in accordance with all material terms of the Contract.

## How the Taxation Laws apply to the Arrangement

Subject in all respects to any conditions stated above, the Taxation Laws apply to the Arrangement as follows:

- (a) For the purposes of the PAYE rules, any payment made to a Driver by Reach Media 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, respectively, ss RD 5, RD 7 and RD 8 of the Income Tax Act 2007.
- (b) For the purpose of s DA 2(4) of the Income Tax Act 2007, any payment made to a Driver by Reach Media under the Contract will not be "income from employment".
- (c) For the purposes of the Goods and Services Tax Act 1985, the provision of services by any Driver under the Contract will not be excluded from the definition of "taxable activity" (in s 6 of the Goods and Services Tax Act 1985) by s 6(3)(b) of the Goods and Services Tax Act 1985.

## **The period or income year for which this Ruling applies**

This Ruling will apply for the period beginning on 1 July 2021 and ending on 30 June 2026.

This Ruling is signed by me on the 23 day of March 2022.

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**Graham Poppelwell**  
Group Lead – Customer Compliance

## About this document

Product Rulings are issued by the Tax Counsel Office and Customer and Compliance Services. Product Rulings set out the Commissioner's view on how tax laws apply to a particular "product" – which is an arrangement that a specified taxpayer is likely to enter into with a number of people on identical terms. Taxpayers who enter into the arrangement described in a Product Ruling may apply the ruling but are not obliged to do so. Product Rulings are binding on the Commissioner. This means that if you are entitled to apply a Product Ruling and you have calculated your tax liability in accordance with the ruling, the Commissioner must accept that assessment. A Product Ruling applies only to the taxation laws and arrangement set out in the ruling, and only for the period specified in the ruling. It is important to note that a general similarity to an arrangement covered by a Product Ruling will not necessarily lead to the same tax result.