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Public Ruling
Payroll Tax Act—Harmonised:
GROUPING OF PROFESSIONAL PRACTICES
AND ADMINISTRATION BUSINESSES

A Public Ruling, when issued, is the published view of the Commissioner on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue/s it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant, subsidy or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. The *Pay-roll Tax (Harmonisation) Amendment Act 2008* amended the *Payroll Tax Act 1971* (the Payroll Tax Act) with effect from 1 July 2008 to harmonise certain aspects of Queensland's payroll tax system with the systems of other jurisdictions.
2. Under the grouping provisions in Part 4 of the Payroll Tax Act, two or more persons or sets of persons who each carry on a business may constitute a group if:
 - (a) they are corporations that are related bodies corporate within the meaning of the *Corporations Act 2001* (Cwlth)¹
 - (b) they share or inter-use employees²
 - (c) the same person(s) have a controlling interest³ or
 - (d) one has a controlling interest in the other (being a corporation) under the tracing provisions in s.72 of the Payroll Tax Act.
3. Section 73 of the Payroll Tax Act provides that if a person is a member of two or more groups, all the members of those groups will constitute one group.

¹ Section 69 of the Payroll Tax Act

² Section 70 of the Payroll Tax Act

³ Section 71 of the Payroll Tax Act

4. There are situations where a number of professional practices (e.g. legal practices, accounting practices, medical practices) operate from the same premises and share the services of an administrative services business. Under these circumstances, each of the professional practices may be grouped with the service business under s.70 of the Payroll Tax Act. As a consequence, all of the businesses could be treated as one group under s.73 of the Payroll Tax Act.
5. The purpose of this Public Ruling is to clarify the circumstances in which professional practices and administrative services businesses are regarded as a group.

Ruling and explanation

6. An administrative services business set up purely to provide administrative services to a professional practice will generally be grouped with the professional practice under s.70 of the Payroll Tax Act.
7. Where two or more professional practices use the services of one administrative services business and are grouped only under s.70 of the Payroll Tax Act, the Commissioner of State Revenue (the Commissioner) will generally exercise his discretion under s.74 of the Payroll Tax Act to make an exclusion order to not group all the professional practices with the administrative services business if all the following conditions are met:
 - (a) none of the persons who own or operate the professional practices has a proprietary interest, whether directly or indirectly, in any of the other professional practices
 - (b) the professional practices are carried on independently of, and are not connected with, each other (i.e. there is no significant financial interdependence and/or commercial transactions between the professional practices, and each professional practice is managed separately)
 - (c) none of the persons who own or operate the professional practices has a controlling interest (as defined in ss.71 and 72 of the Payroll Tax Act), in their own right, in the administrative services business
 - (d) the administrative services business does not derive more than 60 per cent of its income from one professional practice and
 - (e) there is no suggestion that such a structure is designed to avoid payroll tax.
8. If any of the above conditions are not satisfied, and an employer believes that it should not be grouped, the employer can still apply to the Commissioner for an exclusion order under s.74 of the Payroll Tax Act.
9. The Commissioner cannot make an exclusion order under s.74 of the Payroll Tax Act in respect of a person who is a related body corporate of another body corporate in the group.⁴

⁴ Section 74(4) of the Payroll Tax Act

Date of effect

10. This Public Ruling takes effect from the date of issue.

David Smith
Commissioner of State Revenue
Date of Issue 3 July 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA017.2	3 July 2009	3 July 2009	Current
PTA017.1	24 February 2009	1 July 2008	2 July 2009