

# Revenue Ruling

Payroll Tax Act 2009

PTA017

## GROUPING OF PROFESSIONAL PRACTICES & ADMINISTRATIVE BUSINESSES

### Preamble

The *Payroll Tax Act 2009* (the "Act"), which commenced on 1 July 2009, rewrote and repealed the *Pay-roll Tax Act 1971* and provides fully harmonised legislation with New South Wales, Victoria, Tasmania and Northern Territory.

Under the grouping provisions in **Part 5** of the Act, two or more employers may constitute a group if:

- they are corporations that are related bodies corporate within the meaning of the *Corporations Act 2001* (Cwlth) (**Section 70** of the Act);
- they share or inter-use employees (**Section 71** of the Act);
- they are controlled by the same person(s) (**Section 72** of the Act); or
- one has a controlling interest in the other (being a corporation) under the tracing provisions in **Section 73** of the Act.

**Section 74** of the Act provides that if an employer is a member of two or more groups, all the members of those groups will constitute one group.

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 service business. Under these circumstances, each of the professional practices may be grouped with the service business under **Section 71** of the Act. As a consequence, all of the businesses could be treated as one group under **Section 74** of the Act.

The purpose of this Revenue Ruling is to clarify the circumstances in which professional practices and administrative service businesses are regarded as a group.

### Ruling

An administrative service business set up purely to provide administrative services to a professional practice, is routinely grouped with the professional practice under **Section 71** of the Act. However, the approach is less stringent in cases where several professional practices use the services of a single administrative business.

Where two or more professional practices use the services of one service administration business, the Commissioner of State Taxation (the "Commissioner") will generally exercise his discretion under **Section 79** of the Act not to group all the professional practices with the administrative business if all the following conditions are met:

- ▶ 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;
- ▶ the professional practices are carried on independently of, and unconnected 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);
- ▶ none of the persons who own or operate the professional practices has a controlling interest (as defined in **Sections 72** and **73** of the Act), in their own right, in the administrative services business;
- ▶ the administrative services business does not derive more than 60% of its income from one professional practice; and
- ▶ there is no suggestion that such a structure is designed to avoid payroll tax.

If any of the above conditions are not satisfied, and you believe that you should not be grouped, please apply to the Commissioner for exclusion under **Section 79** of the Act.

### Further Information

Further information can be obtained from RevenueSA.

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### History

This Revenue Ruling is effective from 1 July 2009.

This is the first Revenue Ruling issued on this topic.

COMMISSIONER OF STATE TAXATION

1 July 2009

*Revenue Rulings do not have the force of law.*

