

REVENUE CIRCULAR PTA017
Grouping of Professional Practices and Administrative Businesses – <i>Payroll Tax Act 2011</i>
Issue Date: 30 June 2011
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Previous Circular: PTX017

Preamble

The *Payroll Tax Act 2011* (the Act), which commenced on 1 July 2011, rewrites the *Payroll Tax Act 1987* (the 1987 Act) and harmonises the payroll tax legislation in the Australian jurisdictions.

1. Under the grouping provisions in Part 5 of the Act, two or more employers may constitute a group if:
 - (a) they are corporations that are related bodies corporate within the meaning of the *Corporations Act 2001* (Cwth) (section 70 of the Act);
 - (b) they share or inter-use employees (section 71 of the Act);
 - (c) they are controlled by the same person(s) (section 72 of the Act), or
 - (d) one has a controlling interest in the other (being a corporation) under the tracing provisions in section 73 of the Act
2. 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.
3. There are situations in which 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.
4. The purpose of this circular is to clarify the circumstances in which professional practices and administrative service businesses are regarded as a group.

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Grouping of Professional Practices and Administrative Businesses

5. 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.

6. Where two or more professional practices use the services of one administrative business, the Commissioner for ACT Revenue will generally exercise the discretion provided under section 79 of the Act not to group all the professional practices with the administrative business if all of 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 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);
 - (c) 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;
 - (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.
7. If any of the above conditions are not met, and an employer believes that it should not be grouped, the employer may apply to the Commissioner for ACT Revenue for a determination.

SIGNED

David Read
Commissioner for ACT Revenue
30 June 2011