



## **Grouping of Professional Practices and Administration Businesses**

The *Pay-roll Tax Assessment Amendment Act 2010* amended the *Pay-roll Tax Assessment Act 2002* (the Act) with effect from 1 July 2009 to harmonise the legislation of Western Australia's payroll tax system with the legislation of other jurisdictions.

Harmonised revenue rulings are issued by jurisdictions to publish the views of the Commissioner of State Revenue (Commissioner) in respect of the interpretation and application of the harmonised provisions of payroll tax legislation. In other jurisdictions, this Commissioner's Practice is published as harmonised Revenue Ruling PTA 017.

As section 127 of the *Taxation Administration Act 2003* requires that a practice to be established by the Commissioner must first be published, and as harmonised Revenue Ruling PTA 017 sets out the practice that will be followed when the discretion to group professional practices is considered, harmonised Revenue Ruling PTA 017 will be published in Western Australia as a Commissioner's practice rather than a revenue ruling.

### **Background**

Under the grouping provisions in Part 4 of the Act, two or more businesses may constitute a group if:

- they are corporations that are related bodies corporate within the meaning of the *Corporations Act 2001* (Cth) (section 30 of the Act)
- they share or inter-use employees (section 31 of the Act)
- they are controlled by the same person(s) (section 32 of the Act) or
- one has a controlling interest in the other (being a corporation) under the tracing provisions in section 35A of the Act.

Section 36 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.

Section 37 provides that the grouping provisions operate independently of each other, so that a group that is constituted under one grouping provision is not precluded from being constituted under another provision.

There are situations where a number of professional practices (for example, 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 31 of the Act. As a consequence, all of the businesses could be treated as one group under section 36 of the Act.

The purpose of this Commissioner's practice is to clarify the circumstances in which professional practices and administrative service businesses are regarded as a group.

## Commissioner's Practice

1. An administrative service business set up solely to provide administrative services to a professional practice is generally grouped with the professional practice under section 31 of the Act. However, the approach is less stringent in cases where several professional practices use the services of a single administrative business.
2. Where two or more professional practices use the services of one service administration business, the Commissioner may exercise discretion under section 38 of the Act not to group all the professional practices with the administrative business if all the following conditions are met:
  - 2.1 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
  - 2.2 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)
  - 2.3 none of the persons who own or operate the professional practices has a controlling interest (as defined in sections 32 and 33 of the Act), in their own right, in the administrative services business
  - 2.4 the administrative services business does not derive more than 60 per cent of its income from one professional practice and
  - 2.5 there is no suggestion that such a structure is designed to avoid payroll tax.
3. Where any of the above conditions are not satisfied, and a taxpayer believes that they should not be grouped, an application should be made to the Commissioner for a determination.

## Date of Effect

This Commissioner's practice takes effect from 13 March 2015.

Nicki Godecke  
COMMISSIONER OF STATE REVENUE

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## Commissioner's Practice History

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