Queensland Government

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Public Ruling
Payroll Tax Act—Harmonised:
COMMISSIONER'S DISCRETION TO EXCLUDE FROM A GROUP

A public ruling, when issued, is the published view of the Commissioner of State Revenue (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 or exemption, as the case may be, in accordance with the law.

What this ruling is about

1. The purpose of this public ruling is to explain the exclusion discretion available under s.74 of the *Payroll Tax Act 1971* (Payroll Tax Act), including the matters the Commissioner takes into account in exercising the discretion.

2. The *Pay-roll Tax (Harmonisation) Amendment Act 2008* amended 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.

3. Part 4 of the Payroll Tax Act provides for the grouping of two or more employers. The effect of grouping is that only one payroll tax deduction can be claimed for each group.

4. Broadly speaking, two or more persons or sets of persons who each carry on a business may constitute a group where:

   (a) they are corporations that are related bodies corporate within the meaning of the *Corporations Act 2001* (Cwlth)[1]

   (b) at least one employee of a business performs any duties for or in connection with a business conducted by another person, or there is an agreement between two persons for the employee of one of them to perform duties in the business conducted by the other person[2]

   (c) the same person has, or the same persons have together, a controlling interest in two businesses[3]

   or

[1] Section 69 of the Payroll Tax Act
[2] Section 70 of the Payroll Tax Act
[3] Section 71 of the Payroll Tax Act

(d) an entity has a controlling interest in a corporation arising from tracing of interests in corporations.[4]

5. If a person is a member of 2 or more groups, the members of all the groups together constitute a group.[5]

6. To avoid anomalies which may arise from the strict application of the grouping provisions, s.74 of the Payroll Tax Act provides that the Commissioner of State Revenue (the Commissioner) may make an order excluding an employer from a group. The Commissioner cannot make such an order if the employer and another body corporate that is a member of the group are related bodies corporate.[6]

Ruling and explanation

Granting of exclusion

7. In order for an employer to be granted an exclusion from a group, the Commissioner must be satisfied that:

(a) the business is carried on independently of businesses carried on by any other member of the group

and

(b) the business is not connected with the carrying on of businesses carried on by any other member of the group.[7]

8. The matters that the Commissioner must have regard to are:

(a) the nature and degree of the ownership and control of the businesses

(b) the nature of the businesses

and

(c) any other matters the Commissioner considers relevant.[8]

9. The Commissioner must be satisfied that:

(a) there is not a continuous course of active and significant relationship, in a business or commercial sense, between the carrying on of the employer's business and the carrying on of businesses conducted by any other member of the group

and

(b) the connections which do exist are no more than casual, irregular or occasional occurrences.

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4 Section 72 of the Payroll Tax Act
5 Section 73 of the Payroll Tax Act
6 Section 74(4) of the Payroll Tax Act
7 Section 74(2) of the Payroll Tax Act
8 Section 74(3) of the Payroll Tax Act

10. The onus is on the employer who applies for an exclusion order to prove these matters.

Excluding a smaller group from a larger group

11. Where a single member of a group applies for an exclusion order, the tests for exclusion must be satisfied in respect of the relationship between the member (or members) seeking exclusion and every other member of the larger group.

12. Where a group is made up of smaller groups that have been subsumed into a larger group under s.73, the members of a smaller group may be excluded from the larger group. The businesses carried on by all members of the smaller group must be substantially independent of, and not substantially connected with the businesses carried on by every other member of the larger group. It doesn't matter if the members of the smaller group are not entitled to be excluded from their smaller group. The excluded members of the smaller group become a separate group.[9]

Matters taken into account

13. In making a decision, the Commissioner will consider the nature and the extent of all relevant agreements and dealings between the employer and other members of the group, including:

    (a) the nature and extent of any commercial transactions between the members, including the value and percentage of the employer's total business which is conducted with other members of the group

    (b) the extent to which members share resources, facilities or services, including premises, staff, management and accounting services

    (c) the extent to which the employer controls or is involved in managerial decisions and day to day administration of the other members and the extent to which other members control or are involved in managerial decisions and day to day administration of the employer

    (d) the extent to which there are financial interdependencies, including intra-group loans or guarantees and common banking facilities, and the terms and conditions attached to such agreements

    (e) the degree to which there is a connection between the employer and other members of the group in the purchase or sales of goods and services

    (f) the extent to which there is a connection between the nature of the businesses of the employer and other members of the group

    and

    (g) the extent to which there is a connection between the ultimate owners of the employer and other members of the group.

14. None of the matters listed above are determinative in isolation from the other matters listed, nor are they an exhaustive list of the relevant issues. Each case will be considered on the basis of all of the relevant facts and circumstances.

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9 Section 74(1) of the Payroll Tax Act

Date of effect

15. This public ruling takes effect from the date of issue.

Simon McKee
Commissioner of State Revenue
Date of issue: 22 October 2026

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA031.4	22 October 2026	22 October 2026	Current
PTA031.3	8 February 2022	8 February 2022	21 October 2026
PTA031.2	3 July 2009	3 July 2009	7 February 2022
PTA031.1	24 February 2009	1 July 2008	2 July 2009

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