



Australian Capital Territory

# Revenue Legislation Amendment Act 2004 (No 2)

A2004-43

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Name of Act	2
2	Commencement	2
<b>Part 2</b>	<b>Payroll Tax Act 1987</b>	
3	Legislation amended—pt 2	3
4	New section 11A	3
<b>Part 3</b>	<b>Taxation Administration Act 1999</b>	
5	Legislation amended—pt 3	4
6	New division 7.1 heading	4
7	New division 7.2	4
8	Dictionary, new definitions	7





Australian Capital Territory

# Revenue Legislation Amendment Act 2004 (No 2)

**A2004-43**

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*An Act to amend the *Payroll Tax Act 1987* and the *Taxation Administration Act 1999**

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

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2003 253B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Revenue Legislation Amendment Act 2004 (No 2)*.

### 2 Commencement

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

## Part 2 Payroll Tax Act 1987

### 3 Legislation amended—pt 2

This part amends the *Payroll Tax Act 1987*.

### 4 New section 11A

*insert*

#### 11A Joint and several liability of group members

If a member of a group fails to pay an amount that the member is required to pay under this Act in relation to any period, every member of the group is liable jointly and severally to pay the amount to the commissioner.

*Note* The commissioner may recover the amount from the members of the group, any of them or any 1 of them (see the *Taxation Administration Act 1999*, s 50 (1)).

## Part 3 Taxation Administration Act 1999

### 5 Legislation amended—pt 3

This part amends the *Taxation Administration Act 1999*.

### 6 New division 7.1 heading

*before section 48, insert*

#### Division 7.1 General

### 7 New division 7.2

*after section 56, insert*

#### Division 7.2 Recovery of tax from directors of corporations

##### 56A Definitions for div 7.2

In this division:

**arrangement**, for payment of an assessment amount, means an extension of time for payment, or the acceptance of payment by instalments, under section 52 (Arrangements for payment of tax).

**assessment amount**, for a corporation, means the amount of tax liability in an assessment notice issued to the corporation.

##### 56B Liability of directors and former directors for amounts of tax

- (1) This section applies if a corporation does not pay an assessment amount.
- (2) The commissioner may give a written notice about the assessment amount (a **compliance notice**) to 1 or more of the following:

- (a) a director of the corporation;
- (b) a person who was a director of the corporation when the corporation first became liable to pay the assessment amount, or any part of the assessment amount, or at any time afterwards (a *former director*).

*Note* For how documents may be served, see Legislation Act, pt 19.5.

- (3) The compliance notice must state—
  - (a) the assessment amount; and
  - (b) a period (of at least 21 days after the day the notice is given to the director or former director) within which the notice must be complied with; and
  - (c) that the director or former director will be liable to pay the assessment amount if the amount is not paid, or the assessment is not withdrawn, within the stated period.
- (4) If the assessment amount is not paid, or the assessment is not withdrawn, within the period stated in the compliance notice, the director or former director is jointly and severally liable with the corporation to pay the assessment amount.
- (5) For this section, an assessment is taken to be withdrawn if—
  - (a) the commissioner makes an arrangement with the corporation for the payment of the assessment amount; or
  - (b) an administrator of the corporation is appointed under the Corporations Act, part 5.3A; or
  - (c) the corporation begins to be wound up within the meaning of the Corporations Act.
- (6) A person does not cease to be liable to pay an assessment amount because the person ceases to be a director of the corporation.
- (7) A former director of a corporation is not liable for any tax for which the corporation first became liable after the director ceased to be a

director of the corporation, other than interest on an assessment amount for which the former director is liable.

**56C Failure to comply with arrangement for payment**

- (1) This section applies if—
  - (a) a compliance notice is given to a director or former director of a corporation under section 56B in relation to an assessment amount; and
  - (b) the assessment is taken to be withdrawn because the commissioner makes an arrangement for payment with the corporation; and
  - (c) the corporation fails to pay the assessment amount in accordance with the arrangement.
- (2) The commissioner may give a further compliance notice to the director or former director for the amount or any part of the amount.

**56D Right of indemnity of director or former director**

- (1) This section applies if a director or former director of a corporation is liable to pay an amount under this division and an amount is paid by the director or former director in discharge of the liability.
- (2) The director or former director is entitled to be indemnified by the corporation for payment of the amount.

**56E Defence to proceeding for recovery of tax from director or former director**

It is a defence to a proceeding for recovery of an assessment amount from a director or former director of a corporation if the director or former director establishes that he or she took all reasonable steps in the circumstances to ensure that the corporation paid the assessment amount.



**8 Dictionary, new definitions**

*insert*

**arrangement**, for payment of an assessment amount, for division 7.2 (Recovery of tax from directors of corporations)—see section 56A.

**assessment amount**, for a corporation, for division 7.2 (Recovery of tax from directors of corporations)—see section 56A.

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**Endnotes****1 Presentation speech**

Presentation speech made in the Legislative Assembly on 14 May 2004.

**2 Notification**

Notified under the Legislation Act on 11 August 2004.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Revenue Legislation Amendment Bill 2004 (No 2), which originated in the Legislative Assembly as the Revenue Legislation Amendment Bill 2004 and was passed by the Assembly on 3 August 2004.

Clerk of the Legislative Assembly

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