

**EXPLANATORY STATEMENT**  
**AUSTRALIAN CAPITAL TERRITORY**  
**TAXATION (ADMINISTRATION) (AMENDMENT) ORDINANCE 1989**

*No. 20 of 1989*

The Taxation (Administration) Ordinance 1987 (the Principal Ordinance) is an Ordinance relating to the administration of various ACT tax laws. Part X of the Principal Ordinance deals with the grouping of persons for the assessment of tax. Persons are grouped if they are related corporations (section 78), have common employees (section 79), are commonly controlled businesses (section 80), and if smaller groups are subsumed under larger groups (section 81). The effect of grouping is that tax is assessed as if the group was one entity.

The amending Taxation (Administration) (Amendment) Ordinance 1989 (the proposed Ordinance) restricts the discretion of the Commissioner for ACT Revenue Collections to make a determination that a person, who would otherwise be a member of a group by virtue of sections 78, 79, 80 or 81 of the Principal Ordinance, is not a member of a group. The amending Ordinance clarifies that the discretion may not be exercised in relation to related corporations. The amending Ordinance also reduces the significance of the fact that a business being carried on by a member of a group is different from a business being carried on by another member of the group. This is no longer an independent basis on which the Commissioner may exercise his discretion. Rather it is a factor to which the Commissioner may have regard in determining whether a business is being carried on independently.

These amendments to the Principal Ordinance re-establish criteria for assessing liability to payroll tax which existed prior to the commencement of the Principal Ordinance. The changes to the criteria effected by the Principal Ordinance were the result of oversights in the drafting of the Principal Ordinance. The amendments do not have retrospective effect.

Details of the amending Ordinance are attached.

**ISSUED BY AUTHORITY OF  
THE MINISTER OF STATE  
FOR THE ARTS AND TERRITORIES**

**Details of the Taxation (Administration) (Amendment) Ordinance 1989**

Section 1 provides for the short title of the amending Ordinance to be cited as the Taxation (Administration) (Amendment) Ordinance 1989.

Section 2 of the amending Ordinance amends section 77 of the Taxation (Administration) Ordinance 1987 (the Principal Ordinance) by omitting paragraphs 77(2)(a) and 77(2)(b). Replacement paragraph 77(2)(a) incorporates a formal drafting amendment. Replacement paragraph 77(2)(b) requires as a precondition to the exercise of the Commissioner's discretion under subsection 77(2), that persons in the group are not related corporations. The separate ground of exemption in paragraph 77(2)(b) (that persons in the group are carrying on different kinds of business) has been omitted.

Section 2 of the amending Ordinance also inserts subsection 77(2A) in the Principal Ordinance which provides that the Commissioner may have regard to the kinds of business being carried on by members of the group in determining whether a business is being carried on independently of other members in the group.