

Presentation Details:

Slides: 40

Duration: 00:22:42

Presenter Details:

Name: Office of State Revenue

Title: Grouping for payroll tax

Slide 1

Welcome

Duration: 00:00:27

Advance mode: Auto



Notes:

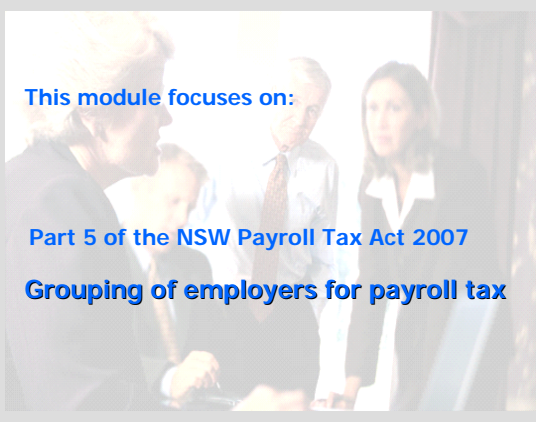
Welcome to this training module. The information in this module is general and should not be relied on solely to determine your payroll tax liability. If you are in any doubt about your payroll tax liability, seek independent professional advice.

Slide 2

Grouping of employers for payroll tax

Duration: 00:00:12

Advance mode: Auto



Notes:

This module focuses on the grouping of employers to determine what payroll tax is owed which is covered in part 5 of the NSW Payroll Tax Act 2007.

Slide 3

Payroll tax Introduction

Duration: 00:00:46

Advance mode: Auto

The screenshot shows the 'Contents' page of the Payroll Tax Act 2007 No 21. It features a table of contents and a list of callouts on the right side. The callouts are: 'Annual tax paid by NSW employers', 'Payroll tax-free threshold applies', 'Payroll tax-free threshold indexed to Inflation from 1 July 2008', and 'Determining payroll tax liability'.

Contents	
Part 1 Preliminary	Page
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 Taxation Administration Act 1996	4
5 Act binds the Crown	4
Part 2 Imposition of payroll tax	
Division 1 Imposition of tax	
6 Imposition of payroll tax	5
7 When to table the payroll tax	5
8 Amount of payroll tax	5
9 When must payroll tax be paid	5

Notes:

Payroll tax is an annual tax paid by employers in NSW. Independent business organisations and payroll tax groups each receive an annual payroll tax-free threshold. In other words, if your liable wages for a whole financial year is less than the payroll tax-free threshold, then no payroll tax is payable. From 1 July 2008, the amount of the payroll tax-free threshold is indexed to the Sydney CPI and may increase for each subsequent financial year. Please also refer to our training module called Determining Payroll Tax Liability to see how payroll tax is calculated using different scenarios.

Slide 4

Definition of what a business is

Duration: 00:00:47

Advance mode: Auto

The screenshot shows the 'Contents' page of the Payroll Tax Act 2007 No 21. It features a table of contents and a list of callouts on the right side. The callouts are: 'Any business structure', 'Profession or trade', 'Any other activity', 'Employ one or more people', 'Operate a trust', and 'Hold any money or property'.

Contents	
Part 1 Preliminary	Page
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 Taxation Administration Act 1996	4
5 Act binds the Crown	4
Part 2 Imposition of payroll tax	
Division 1 Imposition of tax	
6 Imposition of payroll tax	5
7 When to table the payroll tax	5
8 Amount of payroll tax	5
9 When must payroll tax be paid	5

Notes:

Because we're talking here about grouping businesses for payroll tax purposes, let's start by defining what a business is under the Act. Regardless of your business structure, you are a business for payroll tax grouping purposes if you: carry on a profession or trade, carry on any other activity for fee, gain or reward, employ one or more people to work for you or for another business, operate as a trust (including a dormant trust), or hold any money or property used in connection with another business. As you can see, this definition covers just about every possible form of business and it doesn't matter whether or not they pay wages.

Slide 5

Why have grouping provisions?

Duration: 00:00:30

Advance mode: Auto



Notes:

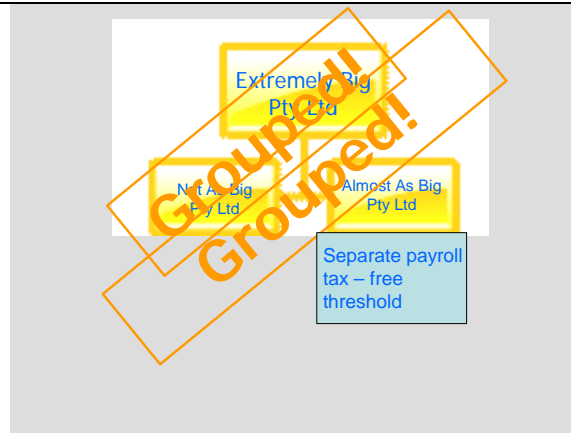
So, why have grouping provisions? We have grouping provisions to make sure that all organisations are treated fairly when it comes to paying payroll tax. Grouping allows us to apply a single tax-free threshold to take away a financial advantage that may have been obtained by having a number of other business entities. So, instead of multiple tax-free thresholds only one tax-free threshold applies to the group of business entities.

Slide 6

Exclusion provisions

Duration: 00:00:20

Advance mode: Auto



Notes:

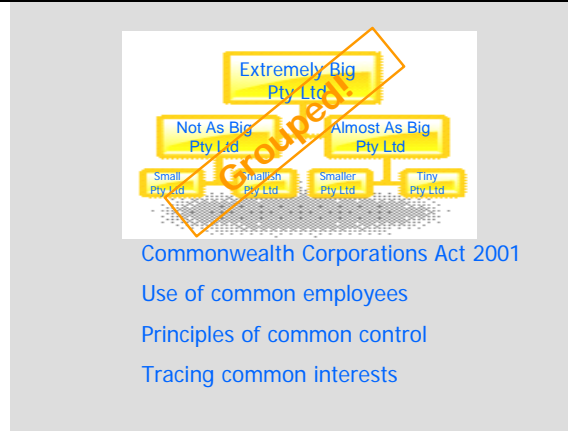
Under the exclusion provisions that we'll discuss later in this module, if grouping led to a technical grouping between otherwise independent businesses, fairness can be maintained because in some situations, the Chief Commissioner can remove a business from a group, and restore their separate payroll tax free threshold.

Slide 7

How are groups created?

Duration: 00:00:31

Advance mode: Auto



Notes:

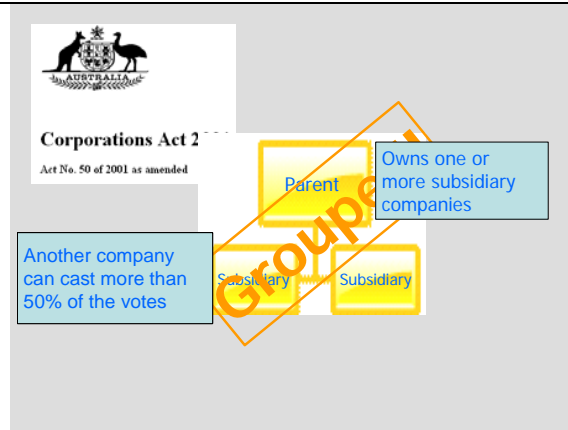
For the majority of our payroll tax clients, there are 4 main ways a group can be created: Based on the parent and subsidiary company rules as set out in the Commonwealth Corporations Act 2001, from the use of common employees, based on the principles of common control of the businesses involved and, by tracing common interests in the businesses involved. Let's take a look at each in turn.

Slide 8

Related corporations

Duration: 00:00:59

Advance mode: Auto



Notes:

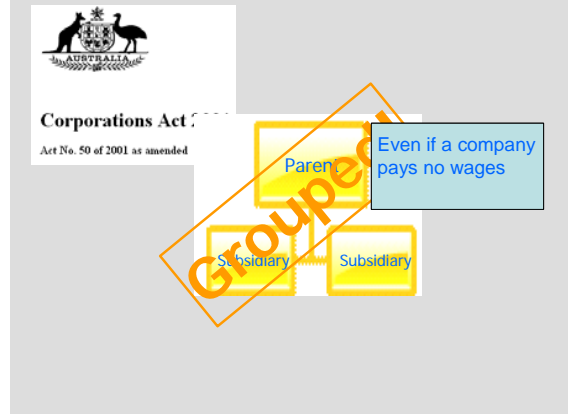
The vast majority of our clients are companies. Here the Commonwealth Corporations Act 2001 is used as a basis for defining related corporations. For example, we look for parent company-subsidary company relationships. A parent or holding company is one that owns one or more subsidiary companies. While a subsidiary company is one where: another company controls the makeup of the Board of Directors, can cast more than 50% of the votes at a company general meeting or, holds more than 50% of the company's issued shares with voting rights attached. If this parent company and subsidiary company structure exists, the parent company and all its subsidiary companies are grouped for payroll tax purposes. Note: that the holding or parent company doesn't have to be in Australia to be part of a group.

Slide 9

Related corporations

Duration: 00:00:29

Advance mode: Auto



Notes:

There are two important things to note: Firstly, a holding company-sub subsidiary company relationship is not broken by any member of the group going into receivership as holding the shares is in itself sufficient to establish the group. And secondly, a company can be grouped even if it pays no wages. We will cover the significance of this in the topic 'joint and several liability' later in this module.

Slide 10

Use of common employees

Duration: 00:00:23

Advance mode: Auto



Notes:

The second grouping method looks at the use of common employees between different businesses. Businesses can be grouped together for payroll tax purposes if a business has employees of another business performing services that could have been carried out by its own employees. Here are three examples of situations where this might happen.

Slide 11 🎧

Common employees example 1

Duration: 00:00:27

Advance mode: Auto



Notes:

In example one, Mary, Estrella and their teams of clerical staff are administration people who are all employed by Imaginary Manufacturing. They also do the payroll, invoicing and general admin work for three other separately owned businesses. As a result, Imaginary Manufacturing and the three other businesses are all grouped for payroll tax purposes.

Slide 12 🎧

Common employees example 2

Duration: 00:00:26

Advance mode: Auto



Notes:

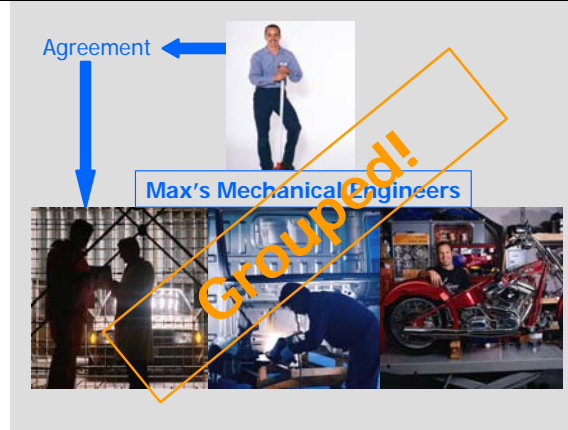
In example two, Marco and Amir and their teams are storemen and forklift drivers. They are employed by Mighty Warehousing but actually work solely or mainly for one or more of the other businesses in their local area. As a result, Mighty Warehousing and the other businesses where this work is done are grouped for payroll tax purposes.

Slide 13

Common employees example 3

Duration: 00:00:39

Advance mode: Auto



Notes:

Finally in example three, Vijay and his team of machinery maintenance people are employed by Max's Mechanical Engineers but are hired out to other businesses because Max has entered into some form of agreement or arrangement for the team to work in those other businesses. An agreement, arrangement or undertaking is still an agreement even if it is informal or implied and even if it only specifies the duties to be performed. Max's Mechanical Engineers and the organisations his employees are working for are grouped for payroll tax.

Slide 14

The principle of common control

Duration: 00:01:30

Advance mode: Auto

Common control



Share Register - Loose Lips Pty Ltd	
Shareholders:	
Larry	75 shares
Ching	5 shares
May	20 shares
Total issued shares:	100

Share Register - Sink Ships Pty Ltd	
Shareholders:	
Larry	40 shares
Ching	20 shares
Beau	40 shares
Total issued shares:	100

Notes:

Common control being exercised over different businesses is the third way businesses are grouped for payroll tax. By common control we mean where 2 or more businesses are controlled by the same person or persons. Here's an example, both Larry and Ching have bought interests in various businesses over the years. Specifically two company share registers were looked at and showed the following shareholders and their shareholdings: Loose Lips Pty Ltd has 100 issued shares as follows: Larry holds 75 shares, Ching holds 5 shares and May has 20 shares, Sink Ships Pty Ltd has also issued 100 shares as follows: Larry holds 40 shares, Ching holds 20 shares and Beau has 40 shares. Larry and Ching together have 80% of the shares in Loose Lips Pty Ltd so effectively control it, and together they also have 60% of the shares in Sink Ships Pty Ltd which they also control. As a result of both companies being commonly controlled by Larry and Ching, Loose Lips Pty and Sink Ships Pty Ltd are a group for payroll tax.

Slide 15

Common Directors

Duration: 00:00:47

Advance mode: Auto

Common control

Voting Entitlements - Loose Lips Pty Ltd	
Directors:	
Larry	1 vote
Ching	1 vote
May	1 vote
Total votes:	3

Voting Entitlements - Sink Ships Pty Ltd	
Directors:	
Larry	1 vote
Ching	1 vote
Beau	1 vote
Total votes:	3

Notes:

On the subject of commonly controlled companies, companies can be grouped when they have common directors who are in control of those businesses. Using the previous example Larry and Ching as Directors of the 2 companies each have a single vote. Voting together gives them control. Directorship control is a matter of fact and looks at the entitlement to vote people have at company meetings. Broadly speaking, a person or set of persons who exercise more than 50% of the voting power at a company's meetings are in control of that company. If the same director or directors exercise directorship control over two or more companies, those companies are a group for payroll tax.

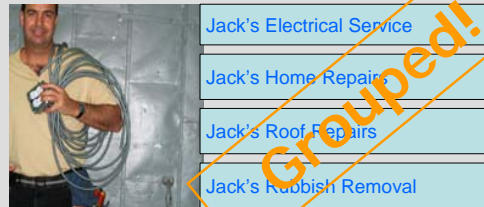
Slide 16

Other forms of common control

Duration: 00:00:33

Advance mode: Auto

Common control



Multiple partnerships controlled by one or more people are also grouped

Notes:

There are other circumstances that can also bring about commonly controlled businesses. For example, if you are a sole trader and own a number of businesses then each of those businesses forms a group. Along the same lines, people who are involved in partnerships that own more than 50% of the capital or earn more than 50% of the profits of different partnerships are in control of those partnerships and so those partnerships are also grouped for payroll tax purposes.

Slide 17

Different business types

Duration: 00:00:23

Advance mode: Auto

Common control



Notes:

A mixture of business types can also be grouped as commonly controlled businesses. For example if Carlos was a sole trader owning Carlos Cakes and the sole director of a company Carlos Cake Shop Pty Ltd then as these businesses are commonly controlled by Carlos, both businesses would be grouped for payroll tax purposes.

Slide 18

Common directors and shareholders

Duration: 00:00:22

Advance mode: Auto

Common control



Carlos Cakes Pty Ltd
(Carlos owns 60% of the shares)

Carlos Cake Shop Pty Ltd
(Carlos is the sole company director)

Notes:

Taking this just one step further, if Carlos this time controlled Carlos Cakes Pty Ltd because he held 60% of the shares in that company and controlled Carlos Cake Shop Pty Ltd because he was the only director of that company, those two companies are also grouped for payroll tax.

Slide 19

Multiple trusts

Duration: 00:00:38

Advance mode: Auto

Common control



60% of the units in a unit trust

70% interest in a life trust

Beneficiary of a discretionary trust

A trust can be part of a group with other types of business structures

Notes:

Finally, any person involved as a beneficiary of multiple trusts can have those trusts grouped under the common control principles. This would happen if they are entitled to receive 50% or more of the value of the trusts. If it is a discretionary trust then any beneficiary is deemed to have more than 50% of the value of the interests in that discretionary trust. Remember a trust can be part of a group with other types of businesses as trusts are considered businesses under the NSW Payroll Tax Act 2007.

Slide 20

Tracing interests in companies

Duration: 00:00:26

Advance mode: Auto



Notes:

The fourth way groups are formed is looking at whether people have other interests in companies, which are not necessarily in a parent company - subsidiary company relationship. Using this method of tracing interests in companies, if a person has effective control of otherwise unrelated companies, those companies are grouped. But first we need to define some terms.

Slide 21

Definitions

Duration: 00:00:37

Advance mode: Auto

Definitions

Controlling interest:	more than 50% of the voting shares
Interest:	50% or less of the voting shares
Indirect interest:	own shares in a company that owns shares in another company
Aggregate interest:	these different interests combined

Notes:

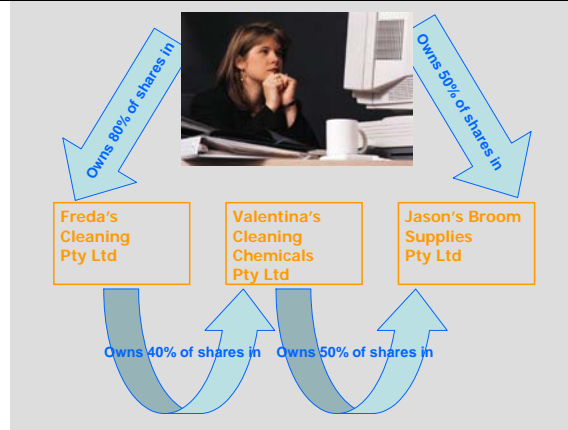
We have already defined a controlling interest in a company where a person has more than 50% of the voting shares in a company. An interest in a company is where they hold 50% or less of the voting shares. Finally an indirect interest is when they own shares in a company which holds shares in another company. The aggregate interest that a person holds is all of those different kinds of interests combined. That aggregate interest may lead to otherwise unrelated companies being grouped for payroll tax purposes.

Slide 22

Tracing example

Duration: 00:00:45

Advance mode: Auto



Notes:

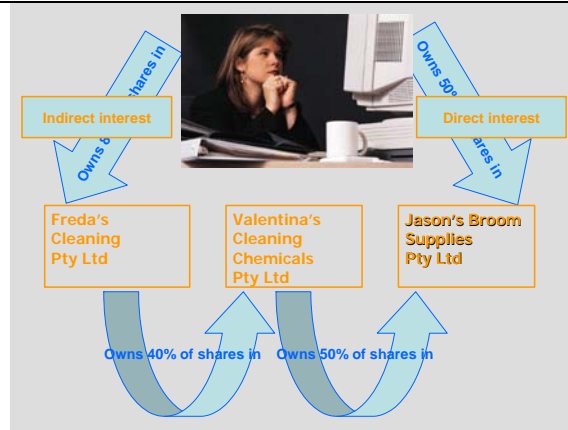
Here's an example. Freda Investor has a controlling interest in Freda's Cleaning Pty Ltd because she owns 80% of the voting shares in it. The same Freda Investor has an interest in another company, Jason's Broom Supplies Pty Ltd where she owns 50% of the voting shares in that company. Freda's Cleaning Pty Ltd also owns 40% of another company's shares - Valentina's Cleaning Chemicals Pty Ltd. In turn Valentina's Cleaning Chemicals Pty Ltd has an interest in Jason's Broom Supplies Pty Ltd holding the other 50% of the shares in that company.

Slide 23

Tracing example part 2

Duration: 00:00:38

Advance mode: Auto



Notes:

Freda Investor has both a direct and an indirect interest in Jason's Broom Supplies Pty Ltd. The direct interest comes about through her personal share ownership in that company. The indirect interest comes about because of her shares in Freda's Cleaning Pty Ltd and that company's shares in Valentina's Cleaning Chemicals Pty Ltd and that further company's shareholding in Jason's Broom Supplies Pty Ltd. We now need to do some calculations to see if a group has been formed using this scenario.

Slide 24

Tracing example part 3

Duration: 00:01:04

Advance mode: Auto

Indirect interest

80% shareholding in Freda's Cleaning
X Freda's Cleaning's 40% in
Valentina's Cleaning Chemicals
X Valentina's 50% in Jason's Brooms

$80 \times 40 \times 50 = 16\%$

Direct interest

50% interest in Jason's Broom
Supplies

$= 50\%$

Aggregate Interest = 16% + 50% = 66%

Notes:

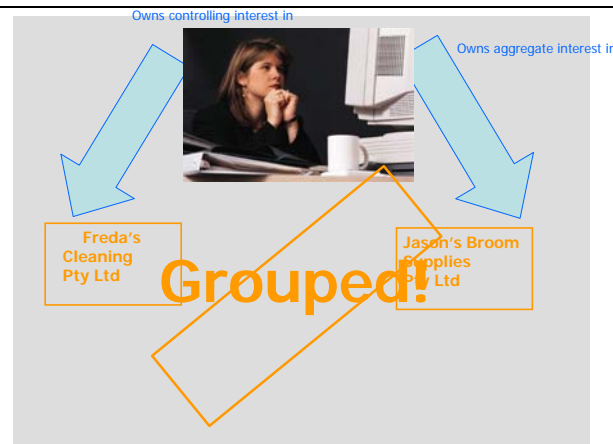
To work out Ms Investor's aggregate interest in Jason's Brooms we need to add together her indirect and her direct interests in that company. Let's start by calculating Freda's indirect interest in Jason's Brooms Pty Ltd. To do that the numbers are: Freda's 80% shareholding in Freda's Cleaning Pty Ltd times Freda's Cleaning's 40% shareholding in Valentina's Cleaning Chemicals times Valentina's Cleaning Chemicals' 50% shareholding in Jason's Brooms. The indirect interest Freda has in Jason's brooms is 16%. If we then add her 50% direct interest in Jason's Brooms, her aggregate interest is now 66%. So, Freda Investor has a controlling aggregate interest in Jason's Broom Supplies Pty Ltd of 66%.

Slide 25

Tracing example result

Duration: 00:00:25

Advance mode: Auto



Notes:

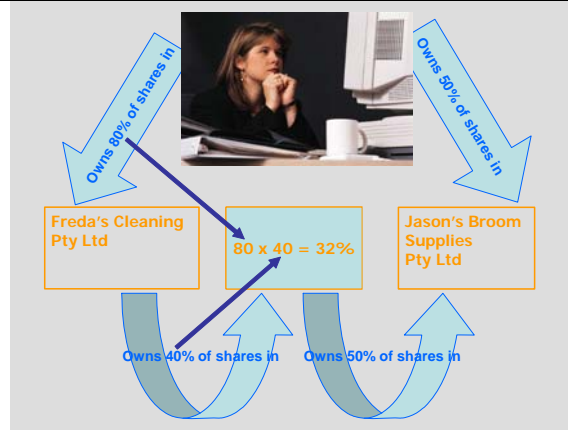
Because Ms. Investor then has an aggregate controlling interest in Jason's Broom Supplies Pty Ltd and has a controlling interest in Freda's Cleaning Pty Ltd, she effectively controls both of those companies. That means that Freda's Cleaning Pty Ltd and Jason's Broom Supplies Pty Ltd are grouped for payroll tax purposes.

Slide 26

Valentina's Cleaning Chemicals is not grouped

Duration: 00:00:36

Advance mode: Auto



Notes:

If we follow the same system and apply it to Valentina's Cleaning Chemicals Pty Ltd we would find Valentina's Cleaning Chemicals Pty Ltd is not part of this group because Freda Investor does not have a controlling interest in that company. In fact Freda Investor has less than 50% ownership of its shares in aggregate. Freda's ownership in Valentina's Cleaning Chemicals Pty Ltd would be calculated as $80\% \times 40\% = 32\%$.

Slide 27

Associated persons

Duration: 00:00:38


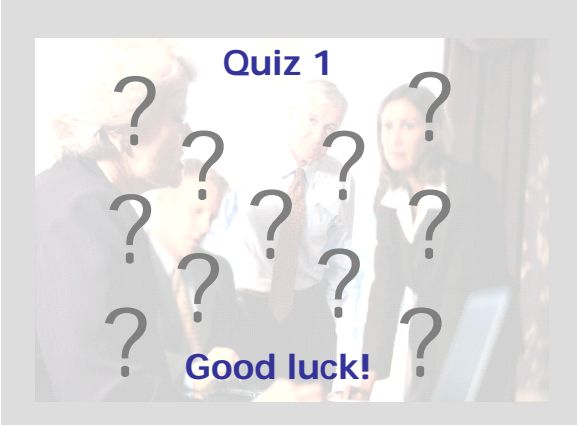
Advance mode: Auto



Notes:

The example we just completed dealt with a single shareholder, Freda Investor. If there are two or more shareholders involved, for this method of grouping to be applied the shareholders must be associated persons as defined under the NSW Payroll Tax Act 2007.

People are associated persons if one is the spouse or domestic partner of the other, or they are parent and child, brothers, sisters, or brother and sister. If you think this applies to you, then contact us for more information.

<p>Slide 28 🎧</p> <p>Small groups become large groups</p> <p>Duration: 00:00:15</p> <p>Advance mode: Auto</p>		<p>Notes:</p> <p>Under any of the grouping provisions mentioned earlier, where a person is a member of 2 or more groups, the members of all those smaller groups are added together to form a new, larger group.</p>
<p>Slide 29 🎧</p> <p>The quiz introduction</p> <p>Duration: 00:00:18</p> <p>Advance mode: Auto</p>		<p>Notes:</p> <p>The information presented here is a basic overview on grouping; at the end of this module you can contact us for assistance with more complex matters. But first, what we'd like you to do now is to check your learning by completing a short quiz. Good luck!</p>
<p>Slide 30</p> <p>Grouping Quiz 1</p> <p>Please see separate .pdf file</p>		<p>Notes:</p>

Slide 31 🎧

Thank you

Duration: 00:00:19

Advance mode: Auto

Designated group employers



Notes:

Thank you for completing the first quiz. Please feel free to re-do the first part of this module if you need to refresh your knowledge. The second part of this module deals with some other important grouping issues. We'll begin by describing Designated Group Employers.

Slide 32 🎧

The Designated Group Employer (DGE)

Duration: 00:00:39

Advance mode: Auto

From 1 July 2007

Gets the full payroll tax-free threshold



Calculating payroll tax liability

Notes:

From 1 July 2007, all groups may nominate one of the members of their group to be the Designated Group Employer or DGE for short. The DGE gets the full payroll tax free threshold allocated to them. Payroll tax is payable on the liable wages over the tax free threshold in the usual way. The rest of the group pays payroll tax on their liable wages. The Calculating Payroll Tax Liability module in this series can provide you with more information on the way to calculate your liability for payroll tax.

Slide 33

Qualifying as a DGE

Duration: 00:00:39

Advance mode: Auto

Qualifying as the DGE

Members of the group can nominate the preferred DGE
Needs to have the payroll tax-free threshold in eligible wages
If you don't we may do it for you



Notes:

To qualify as the Designated Group Employer that member of the group needs to have the payroll tax-free threshold or more in eligible wages in the last financial year or has to be likely to have that amount of liable wages in the current financial year. If none of the group qualifies in this way, the members of the group can nominate their preferred DGE. If we agree with the nomination, the process can go ahead. You are probably better to make your own nomination because under the NSW Payroll Tax Act 2007, if you don't, we may do it for you.

Slide 34

Not enough wages to be the DGE?

Duration: 00:01:03

Advance mode: Auto

Not enough wages to make the threshold?

Single lodger

[On-line monthly calculator](#) [FAQ](#)

Payroll Tax – Free Threshold



Notes:

So, what happens if the Designated Group Employer does not have wages beyond the tax-free threshold? One member of the group lodges a single lodger return for the group. A single lodger is the group member responsible for lodging returns and paying payroll tax on behalf of all members of the group. That way the whole group still gets the benefit of the full tax free threshold. Please have a look at our on-line monthly calculator for more details on how to calculate your group's payroll tax liability either using the Designated Group Employer process or under this single lodger system. Just to make sure it's clear, if a group doesn't have a Designated Group Employer, or doesn't lodge a return as a single lodger, every member of the group has to pay based on their total liable wages. In other words, the group loses the benefit of the tax free threshold completely.

Slide 35

Joint & Several Liability

Duration: 00:00:38

Advance mode: Auto

Joint and several liability



Notes:

Joint & several liability means that every member of the group is responsible for the total amount of any outstanding payroll tax liability for the group either together or separately. For example if there are 7 members of a group and the group liability is \$14,000 that does not necessarily mean they are each liable for \$2,000. If only one member of the group can afford to pay, then that one member of the group on its own will be required to pay the total \$14,000 outstanding.

Slide 36

Exclusion provisions

Duration: 00:00:57

Advance mode: Auto



Exception:
Related corporations cannot be ungrouped
Previously:
Before 1 July 2007 powers to exclude were limited
New Powers:
Do not extend to groups formed in financial years prior to 1 July 2007

Notes:

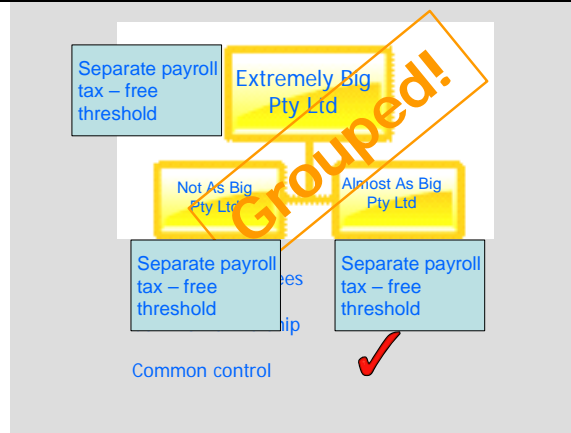
If a business has been included in a group and they believe that they should not have been included, they may apply in writing to the Chief Commissioner to be excluded from that group. The only exception is where companies are grouped because they are related corporations under the Commonwealth Corporations Act 2001. In this case exclusion cannot be granted. The Chief Commissioner's powers to grant exclusions were expanded after 1 July 2007 when the current legislation became law. Before that time, the Chief Commissioner could grant exclusions only in limited circumstances. The Chief Commissioner's new powers don't extend to groups formed before 1 July 2007. The old, more limited rules still apply to granting an exclusion to a member of those earlier groups.

Slide 37

Exclusion provisions

Duration: 00:00:24

Advance mode: Auto



Notes:

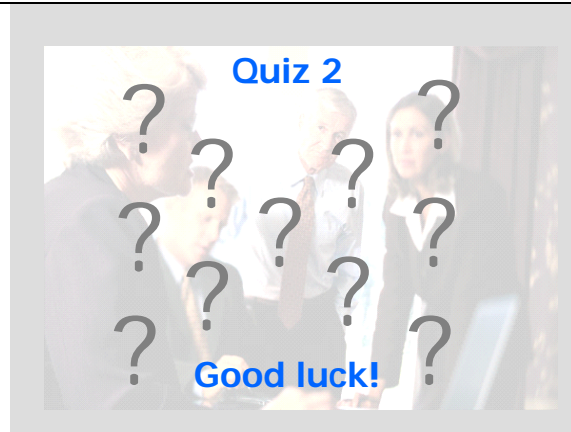
In deciding on an exclusion application, the Chief Commissioner looks at the kind of things we've covered in this training like common employees, common ownership and control and so on. If the Chief Commissioner is satisfied the businesses are independent and not connected, then each business gets a payroll tax free threshold.

Slide 38

The quiz introduction

Duration: 00:00:09

Advance mode: Auto



Notes:

Time to again check your learning by completing the second of our short quizzes. Good luck!

Slide 39

Grouping Quiz #2

Please see separate .pdf file

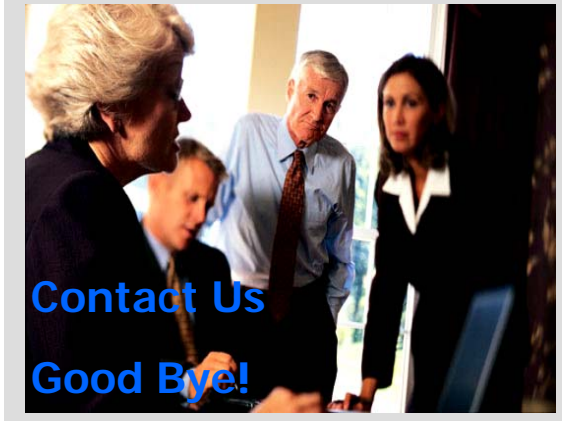
Notes:

Slide 40 

Course concludes

Duration: 00:00:54

Advance mode: Auto



Notes:

Thank you for completing quiz number 2. Every employer's circumstances are different and we can only cover so much in training materials of this kind, so if you need more information or have a specific case you need assistance with, please select the link on the Main Menu to be taken to the 'Contact Us' page. Then use that contact information to write with the facts or give us a call. Thank you for your time. This module is now complete. Next, you'll be returned to the Main Menu where you make contact, quit the training course or select another module to complete. Goodbye for now.