



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2023-273

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	30
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: [REDACTED]
To: [CMTEDD FOI](#)
Cc: [REDACTED]
Subject: FOI request for the extension of payroll tax to GP's
Date: Monday, 7 August 2023 12:41:19 PM

Hi CMTEDD FOI Team,

I would like to request all documents and correspondence in the Chief Ministers office and CMTEDD regarding the extension of ACT Payroll tax to the incomes of doctors contracted to ACT medical practices.

This should include but not be limited to:

- Any communication or direction from or to ACT Revenue discussing contacting GP's to advise them of their liability for increased payroll tax (including backpay).
- Any communication, direction or correspondence around back paying of payroll tax by GPs.
- All documents and correspondence prepared before and after Leanne Castley MLA's Notice of Motion (as well as the Chief Ministers amendment) on the extension of payroll tax to GPs on the 10/5/2023.
- Any estimates or modelling prepared or drafted by CMTEDD regarding the extension of payroll tax to GPs.
- All internal briefings and minutes circulated to the Chief Ministers office before meetings with stakeholders including but not limited to the AMA and RACGP.

Thanks,





ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI2023-273



FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 7 August 2023 in which you sought access to records that are held by CMTEDD, specifically:

... all documents and correspondence in the Chief Ministers office and CMTEDD regarding the extension of ACT Payroll tax to the incomes of doctors contracted to ACT medical practices in the period 1 January 2023 to 8 August 2023.

This should include but not be limited to:

- *Any communication or direction from or to ACT Revenue discussing contacting GP's to advise them of their liability for increased payroll tax (including backpay).*
- *Any communication, direction or correspondence around back paying of payroll tax by GPs.*
- *All documents and correspondence prepared before and after Leanne Castley MLA's Notice of Motion (as well as the Chief Ministers amendment) on the extension of payroll tax to GPs on the 10/5/2023.*
- *Any estimates or modelling prepared or drafted by CMTEDD regarding the extension of payroll tax to GPs.*
- *All internal briefings and minutes circulated to the Chief Ministers office before meetings with stakeholders including but not limited to the AMA and RACGP regarding payroll tax.*

Authority

I am an Information Officer appointed by the Director-General of CMTEDD under section 18 of the Act to deal with access applications made under Part 5 of the Act.

I am a tax officer for the purposes of the *Taxation Administration Act 1999* (TAA), and a delegate of the Commissioner of ACT Revenue for the purpose of section 96 of the TAA.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 19 September 2023.

Decision on access

Searches were completed for relevant documents held by CMTEDD in relation to your access application, and 185 documents were identified that fall within the scope of your request.

I have decided to grant full access to the 54 documents and partial access to 117 documents.

The documents identified for full or partial disclosure have been itemized in Document Schedules A, B, C and D. These schedules provide a short description of each document that falls within the scope of your request, and the access decision for each of those documents.

The itemized documents are provided in corresponding document binders referred to as Document Bundles A, B, C and D.

14 of these documents are exempt from disclosure as they contain taxpayer information, or Cabinet information. Under the Act, these documents are taken to be contrary to the public interest to disclose under Schedule 1, sections 1.3 and 1.6 of the Act and have been withheld. They have been identified in Document Schedules as 'Exempt'.

Pursuant to section 43(1)(d) read with sections 45(a) and 45(g) of the Act, documents that can ordinarily be purchased or are publicly accessible such as conference papers, online materials from tax advisors, published rulings, court decisions have not been identified or disclosed.

My access decisions are detailed further in the following Statement of Reasons in accordance with section 54(2) of the Act.

Statement of Reasons

In reaching my access decision, I have taken the following into account:

- the Act;
- the TAA, particularly the secrecy provisions under Division 9.4;
- the *Human Rights Act 2004*, and
- the content of the documents that fall within the scope of your request.

Public Interest

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, the public interests lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when '*used in a statute, the term [public interest] derives its content from "the subject matter and the scope and purpose" of the enactment in which it appears*'. Section 17(1) of the Act sets out the test to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Exemptions

Schedule 1, section 1.3

Under Schedule 1, section 1.3, information is taken to be contrary to the public interest to disclose, where disclosure is prohibited by law. In particular, sections 1.3(6) and (7) provide:

- (6) *Any other information the disclosure of which is prohibited by a secrecy provision of a law.*
- (7) *In this section:*
 - secrecy provision**—*a provision of a law is a **secrecy provision** if it—*
 - (a) *applies to information obtained in the exercise of a function under the law; and*
 - (b) *prohibits people mentioned in the provision from disclosing the information, whether the prohibition is absolute or subject to stated exceptions or qualifications.*

Division 9.4 of the TAA contains secrecy provisions as defined in Schedule 1.3(6) and (7) of the Act.

Any information that falls within the meaning of ‘information obtained under or in relation to the administration of a tax law’ (tax information) in section 95(2) of the TAA is prohibited by law from disclosure. Sections 96 and 97 allow for disclosure of tax information in certain circumstances, however, I am satisfied that none of these circumstances apply in this instance where documents, parts of documents or information have been withheld from release.

Having considered the documents, I am satisfied that those withheld or with parts redacted comprise tax information that has been obtained in the administration of tax laws, and/or that would identify individual taxpayers and their tax information, directly or indirectly. As such, these documents have been redacted as they are subject to the secrecy provisions in the TAA and are not appropriate for disclosure.

Some documents also contain information that was provided by the Australian Taxation Office to the ACT Revenue Office, pursuant to a Memorandum of Understanding for tax administration purposes. The further disclosure of this information is restricted under subsection 355-155 of the *Taxation Administration Act 1953* (Cth). In line with the secrecy provisions of this Commonwealth Act therefore and Schedule 1, section 1.3 of the Act, the documents which comprise of information provided by the Australian Taxation Office have been redacted.

Schedule 1, section 1.6

1.6 Cabinet information

(1) Information—

- (a) *that has been submitted, or that a Minister proposes to submit, to Cabinet for its consideration and that was brought into existence for that purpose; or*
- (b) *that is an official record of Cabinet; or*
- (c) *that is a copy of, or part of, or contains an extract from, information mentioned in paragraph (a) or (b); or*
- (d) *the disclosure of which would reveal any deliberation of Cabinet (other than through the official publication of a Cabinet decision).*

I have considered certain documents (identified in Document Schedules C and D) to be contrary to the public interest to disclose under Schedule 1 section 1.6 of the Act on the basis that they contain cabinet information. In my view the information contained in these

documents are not purely factual information.

These documents contain information that were submitted or proposed to be submitted to Cabinet for its consideration and were brought into existence specifically for that purpose. It stands to reason therefore that the disclosure of any of the information in these documents would involve the disclosure of a deliberation of Cabinet.

Schedule 1, section 1.14

1.14 Law enforcement or public safety information

(1) Information the disclosure of which would, or could reasonably be expected to— (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case;

The disclosure of the information in certain documents as identified would reasonably be expected to prejudice or compromise the investigation of compliance with payroll tax legislation in a particular case, by enabling other entities that may be subject to similar investigations to construct defences, or to identify tax loopholes.

The ACT Revenue, is a law enforcement agency, and is charged with the responsibility of monitoring compliance, investigating breaches and enforcing the ACT's taxation laws.

Revealing confidential information received by ACT Revenue during its course of tax administration would prejudice the flow of information from the public to it thereby hindering its ability to obtain confidential information to carry out its investigations, compliance and audit activities. In the circumstances, I am satisfied that redacting the information that I believe is not in the public interest to disclose will ensure that the intent of the Act is met, while still providing access to the majority of the information comprised in the relevant documents held by CMTEDD.

Schedule 2 Factors to be considered when deciding the public interest

Where information is not taken to be contrary to the public interest to disclose under Schedule 1, I must consider whether the information would nonetheless be, on balance, contrary to the public interest to disclose in accordance with the factors identified in section 17 and Schedule 2.

In doing so, I am mindful of section 9, which provides that the Act is to be administered with a pro-disclosure bias and discretions given under it be exercised as far as possible in favour of disclosing government information.

Schedule 2 section 2.1 Factors favouring disclosure

Taking into consideration the information contained in the documents found to be within the scope of the request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the 'public interest'.

Schedule 2, section 2.1(a)(ii)

(ii) contribute to positive and informed debate on important issues or matters of public interest;

Releasing documents such as internal correspondence allow for transparency of government action. The disclosure of these documents is in line with the 'public interest test' and pro-disclosure intent of the Act, and the principles of open government promoted by the ACT Government. I am satisfied that this factor favouring disclosure carries weight, and that it would be appropriate to disclose information on the basis that it would inform the community of important issues of public interest.

Schedule 2, section 2.1(a)(viii)

(viii) reveal the reason for a government decision and any background or contextual information that informed the decision;

This factor is of sufficient weight, noting that a number of documents relate to internal communications, which assist in providing context and background. I consider that the release of this information would reveal the reason for a government decision and provide insight into governmental decision making.

Schedule 2 section 2.2 Factors favouring nondisclosure

I consider the factors in Schedule 2 section 2.2 mentioned below to be relevant factors in favour of nondisclosure in the public interest.

In making my decision, I have had regard to section 9, which provides that the Act is to be administered with a pro disclosure bias, and to section 50(1) which provides that to the extent possible, an applicant should be given access to a copy of a record with contrary to the public interest information deleted.

Schedule 2, section 2.2(a)(ii)

(ii) prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004;

Having reviewed the documents, I consider that the protection of an individual's right to privacy especially in the course of dealings with and within the ACT Government is a significant factor. The parties involved have provided their personal information for the purposes of working with the ACT Government, or in some situations may have been required by law (i.e. the TAA) to supply that information. Individuals are entitled to expect that their personal information will be dealt with in a manner that protects their personal privacy.

This, in my opinion, outweighs the benefit which may be derived from releasing the personal information of some individuals (such as names, email addresses, phone numbers, leave arrangements) contained in a number of the documents, particularly where it could prejudice their right to privacy under the *Human Rights Act 2004*.

Having applied the test outlined in section 17 of the Act and deciding that release of individuals' personal information is not in the public interest, I have chosen to redact this information.

Schedule 2 section 2.2(a)(x)

(x) prejudice intergovernmental relations;

ACT Revenue works collaboratively with other jurisdictions including sharing ideas on investigation and auditing procedures and administering harmonized tax laws. The Chief Minister's office interacts with and has working relationships with Ministers of different governments and members of Parliament.

Revealing the correspondence between intergovernmental agencies will prejudice intergovernmental relations. As it is likely to reveal communications made in confidence resulting in possible loss of trust and cooperation between governments. In this situation, I am satisfied that redacting the information that I believe is not in the public interest to disclose will ensure that the intent of the Act is met, while still providing access to the majority of the information comprised in the relevant documents held by CMTEDD that are within the scope of the request.

Schedule 2 section 2.2(a)(xi)

(xi) prejudice trade secrets, business affairs or research of an agency or person;

A factor favoring non-disclosure is that disclosure could reasonably be expected to prejudice trade secrets, business affairs or research of any agency or person. This factor protects third parties and ensures the Act is not used to inadvertently obtain commercial information about the business interests of others, or to obtain a competitive edge over others .

Schedule 2 section 2.2(a)(xii)

(xii) prejudice an agency's ability to obtain confidential information;

I consider this factor carries significant weight having regard to the role of the ACT Revenue, a law enforcement agency, charged with the responsibility of monitoring compliance, investigating breaches and enforcing the ACT's taxation laws.

Revealing confidential information received by ACT Revenue during its course of tax administration would prejudice its ability to obtain confidential information to carry out its investigations, compliance and audit activities. In the circumstances, I am satisfied that redacting the information that I believe is not in the public interest to disclose will ensure that the intent of the Act is met, while still providing access to the majority of the information comprised in the relevant documents held by CMTEDD.

Schedule 2 section 2.2(a)(xvi)

(xvi) prejudice a deliberative process of government;

This factor can apply where disclosure of information could reasonably be expected to prejudice a deliberative process of government. 'Deliberative process' is not defined in the Act, however, it has been described as a 'thinking process' of government.

In considering whether disclosure of information would be appropriate I am mindful of the need to weigh up government's ability to function effectively and efficiently, with the provision of information that could enhance public participation and transparency of government activities.

In this situation preliminary information has been generated within ACT government for

internal consideration before a decision can be made to progress change.

On balance, I consider that in respect of that information that forms part of the relevant document, the importance of an agency being able to consider, deliberate on, and ultimately arrive at an informed decision, outweighs the benefit to the public that would result from the release of this information. Accordingly, I have made a decision to redact this information from the documents.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2018*, processing charges may be applicable for access applications. Under section 107(2)(e) of the Act, however, a fee must be waived if the applicant is a member of the Legislative Assembly. As such, a fee has not been determined for this request.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. As your access application was in part for your personal information, section 28(6)(a) of the Act provides that the access application will not be included in the CMTEDD disclosure log.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the date of receipt of my decision.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: ombudsman@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601 Telephone:
(02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact the Freedom of Information Officer by telephone on 6205 9626 or email ACTRO.FOI@act.gov.au quoting CMTEDDFOI2023-273.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Shu-Yen Ee', with a horizontal line extending to the right.

Shu-Yen Ee

Information Officer
Revenue Management
Chief Minister, Treasury and Economic Development Directorate

19 September 2023



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI2023-273



FREEDOM OF INFORMATION REQUEST

I refer to your application CMTDD FOI 2023-273 under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) in which you sought access to records that are held by CMTEDD, specifically:

... all documents and correspondence in the Chief Ministers office and CMTEDD regarding the extension of ACT Payroll tax to the incomes of doctors contracted to ACT medical practices in the period 1 January 2023 to 8 August 2023.

This should include but not be limited to:

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- *Any estimates or modelling prepared or drafted by CMTEDD regarding the extension of payroll tax to GPs.*
- *All internal briefings and minutes circulated to the Chief Ministers office before meetings with stakeholders including but not limited to the AMA and RACGP regarding payroll tax.*

The decision on the access application was made on 19 September 2023. It has come to my attention that the decision did not provide for publication in the CMTEDD disclosure log.

Pursuant to section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log after 3 days from the date of my decision. Your personal contact details will not be published.

You may view the CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>.

Please take this letter as an addendum to the decision dated 19 September 2023.

Should you have any queries in relation to your request please contact me on 6205 9626 or email ACTRO.FOI@act.gov.au quoting CMTEDDFOI2023-273.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Shu-Yen Ee', with a horizontal line extending to the right.

Shu-Yen Ee

Information Officer
Revenue Management
Chief Minister, Treasury and Economic Development Directorate

21 September 2023



ACT
Government

Chief Minister, Treasury and
Economic Development

**FREEDOM OF INFORMATION
REQUEST SCHEDULE A**

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
[REDACTED]	<p><i>... all documents and correspondence in the Chief Ministers office and CMTEDD regarding the extension of ACT Payroll tax to the incomes of doctors contracted to ACT medical practices in the period 1 January 2023 to 8 August 2023.</i></p> <p><i>This should include but not be limited to:</i></p> <ul style="list-style-type: none"><i>• Any communication or direction from or to ACT Revenue discussing contacting GP's to advise them of their liability for increased payroll tax (including backpay).</i><i>• Any communication, direction or correspondence around back paying of payroll tax by GPs.</i><i>• All documents and correspondence prepared before and after Leanne Castley MLA's Notice of Motion (as well as the Chief Ministers amendment) on the extension of payroll tax to GPs on the 10/5/2023.</i><i>• Any estimates or modelling prepared or drafted by CMTEDD regarding the extension of payroll tax to GPs.</i><i>• All internal briefings and minutes circulated to the Chief Ministers office before meetings with stakeholders including but not limited to the AMA and RACGP regarding payroll tax.</i>	CMTEDDFOI2023-273

Document No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-3	Email	10/01/2023	Partial	Sch 2.2(a)(ii) <i>Freedom of Information Act 2016</i>	Yes
2	4	Email	02/02/2023	Partial	Sch 2.2(a)(ii) <i>Freedom of Information Act 2016</i>	Yes
3	5-15	Email	14/02/2023	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
4	16-17	Email	15/02/2023	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
5	18-19	Email	17/02/2023	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
6	20-21	Email	17/02/2023	Partial	Sch2, s.2.2(a)(ii) <i>Freedom of Information Act 2016</i>	Yes
7	22-24	Email	17/02/2023	Partial	Sch2, s.2.2(a)(ii) <i>Freedom of Information Act 2016</i>	Yes
8	25-28	Email	17/02/2023	Partial	Sch2, s.2.2(a)(ii) <i>Freedom of Information Act 2016</i>	Yes
9	29-31	Email	17/02/2023	Partial	Sch2, s.2.2(a)(ii) <i>Freedom of Information Act 2016</i>	Yes
10	32-34	File Note	22/02/2023	Partial	Sch 2, s.2.2(a)(x) and s.2.2(a)(xvi) <i>Freedom of Information Act 2016</i>	Yes
11	35-36	Email	22/02/23	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
12	37	Email	22/02/23	Full	-	Yes
13	38-39	Email	22/02/2023	Full	-	Yes
14	40	Email	22/02/23	Full	-	Yes
15	41	Email	22/02/23	Full	-	Yes
16	42-46	Email	23/02/23	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
17	47-56	Email	23/02/2023	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
18	57-59	Email	23/02/23	Partial	Sch2, s.2.2(a)(ii) and s.2.2(a)(x) <i>Freedom of Information Act 2016</i>	Yes

Document No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
19	60	Email	23/02/23	Full	-	Yes
20	61	Email	23/02/23	Full	-	Yes
21	62-63	Document	23/02/23	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
22	64-65	Email	23/02/23	Partial	Sch2, s.2.2(a)(ii) <i>Freedom of Information Act 2016</i>	Yes
23	66	Email	23/02/23	Full	-	Yes
24	67-72	Email	24/02/23	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
25	73-75	Email	24/02/23	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
26	76	Email	24/02/23	Full		Yes
27	77-81	Email	27/02/23	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes
28	82-83	Email	27/02/23	Partial	Sch2, s.2.2(a)(ii) <i>Freedom of Information Act 2016</i>	Yes
29	84	Email	28/02/23	Full	-	Yes
30	85	Email	28/02/23	Full	-	Yes
31	86-88	Notes	undated	Partial	Sch 1, s.1.3 <i>Freedom of Information Act 2016</i>	Yes

From: "Amalos, Paul" <Paul.Amalos@act.gov.au>
Sent: 10/01/2023 10:34 AM
To: "Ellis, David" <David.Ellis@act.gov.au>; "Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>
Subject: FW: Urgent request - Application of PRT contractor provisions to medical centres

OFFICIAL

FYI.

Paul Amalos | Director | Compliance
Phone: +61 2 6207 0100 | paul.amalos@act.gov.au
ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government
PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

Respect, Integrity, Collaboration, Innovation - Better, Faster, Smarter

Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.

From: Thorpe, Amanda <Amanda.Thorpe@act.gov.au>
Sent: Tuesday, 10 January 2023 10:01 AM
To: Amalos, Paul <Paul.Amalos@act.gov.au>
Cc: Black, Simone <Simone.Black@act.gov.au>; Amos, Louise <Louise.Amos@act.gov.au>
Subject: RE: Urgent request - Application of PRT contractor provisions to medical centres

OFFICIAL

Hi Paul,

Thank you, I appreciate the prompt response.

The responses we have received from the other jurisdictions are also consistent with your position.

Kind regards,

Amanda.

From: Amalos, Paul <Paul.Amalos@act.gov.au>
Sent: Tuesday, 10 January 2023 9:59 AM
To: Thorpe, Amanda <Amanda.Thorpe@act.gov.au>
Cc: Black, Simone <Simone.Black@act.gov.au>; Amos, Louise <Louise.Amos@act.gov.au>
Subject: RE: Urgent request - Application of PRT contractor provisions to medical centres

OFFICIAL

Hi Amanda

In response to the questions asked by NSW, I provide the following:

1. We have no published guidelines or circular in relation to medical centres.
2. Agree with your response. Generally we would consider the previous 5 years plus current in regards to the reassessment period, notwithstanding this would apply to those taxpayers where an existing assessment for the relevant period has been completed. This is determined on a case by case basis and may go beyond the 5 years if all the facts and circumstances affecting the liability were not fully and truly disclosed to the Commissioner. Also, the period may go longer in cases where taxpayers were not registered or been assessed for tax.

Regards

Paul Amalos | Director | Compliance

Phone: +61 2 6207 0100 | paul.amalos@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

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Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.

From: Thorpe, Amanda <Amanda.Thorpe@act.gov.au>

Sent: Monday, 9 January 2023 3:42 PM

To: Amalos, Paul <Paul.Amalos@act.gov.au>

Cc: Black, Simone <Simone.Black@act.gov.au>; Amos, Louise <Louise.Amos@act.gov.au>

Subject: FW: Urgent request - Application of PRT contractor provisions to medical centres

Importance: High

OFFICIAL

Good afternoon,

We have received this urgent request from NSW.

Regarding question 1 -

- I have had a quick look at what seemed to be the relevant circulars and couldn't see anything particular to PRT contractors and medical centres.
- I suspect it may be in relation to this case: [Thomas and Naaz Pty Ltd \(ACN 101 491 703\) v Chief Commissioner of State Revenue \[2022\] NSWCATAP 220 | Revenue NSW](#)

Regarding question 2 -

- As far as I'm aware we only apply the 5 year reassessment limitations as per s 9 of the TAA.

Thank you for your assistance.

Kind regards,

Amanda Thorpe | A/g Assistant Director | Objections and Policy

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Phone: +61 2 6205 9520 | amanda.thorpe@act.gov.au

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

Respect, Integrity, Collaboration, Innovation - Better, Faster, Smarter

Please consider the environment before printing this email - or if printing is necessary, please print double-sided

From: [REDACTED]

Sent: Monday, 9 January 2023 3:06 PM

To: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

Cc: [Redacted]; [Redacted]

Subject: Urgent request - Application of PRT contractor provisions to medical centres

Importance: High

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Good afternoon all,

Could you advise asap whether:

1. your jurisdiction has published guidelines about the application of the PRT contractor provisions to medical centres
2. whether you limit audits to tax years such as has been announced by Qld (from the Thomas and Naaz decision in 2022 NCAT decision as in NSW), or from the 2018 decision in The Optical Superstore

Thanks, sorry for the urgency of this request.

Please reply directly to [Redacted].

Regards,

[Redacted]

[Redacted]
Assistant Policy Officer | TAS Policy and Legislation
Revenue NSW

[Redacted] [Redacted]



Staying up to date with your vaccinations.
Little things. Big difference.

Together we can stay COVID safe



I acknowledge the traditional custodians of the land and pay respects to Elders past and present. I also acknowledge all the Aboriginal and Torres Strait Islander staff working with NSW Government at this time.

From: "Mison, Matt" <Matt.Mison@act.gov.au>
Sent: 02/02/2023 4:15 PM
To: "Khan, FaheemK" <FaheemK.Khan@act.gov.au>; "Atkins, Brittany" <Brittany.Atkins@act.gov.au>
Subject: FW: Medical payroll tax issue

To discuss

From: AGPA Secretariat <admin@australiangpalliance.org.au>
Sent: Thursday, 2 February 2023 2:14 PM
To: Mison, Matt <Matt.Mison@act.gov.au>
Subject: Medical payroll tax issue

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Hi Matt,
 Thanks for taking the time on the

phone just now. Further to telephone call, the AMA believe that the issue of payroll tax being applied to medical professional fees is likely to come up at National cabinet (possibly along with Medicare reform proposals). The risk to the ACT of NSW applying payroll tax to medical professional fees is the pressure this will put on to bulk billing and then the southern NSW influx into ACT hospital emergency departments. There is also the issue that States are in effect taxing commonwealth payments which is an interesting concept.

There is a post on the AGPA website which gives some background.
<https://australiangpalliance.com.au/state-tax-on-medical-fees/>

Please give me a call if you need any further information.

Kind regards



Executive Officer
 Australian GP Alliance



AUSTRALIAN GP ALLIANCE

PO Box 241 | Deakin West ACT 2600 | Australia

admin@australiangpalliance.org.au

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From: [Ciaccia, Rino](#)
To: [Ellis, David](#)
Cc: [Amos, Louise](#); [Amalos, Paul](#)
Subject: Medical Practices listing
Date: Tuesday, 14 February 2023 5:03:06 PM
Attachments: [MedicalPracticesOperatingInACTFeb2023.xlsx](#)

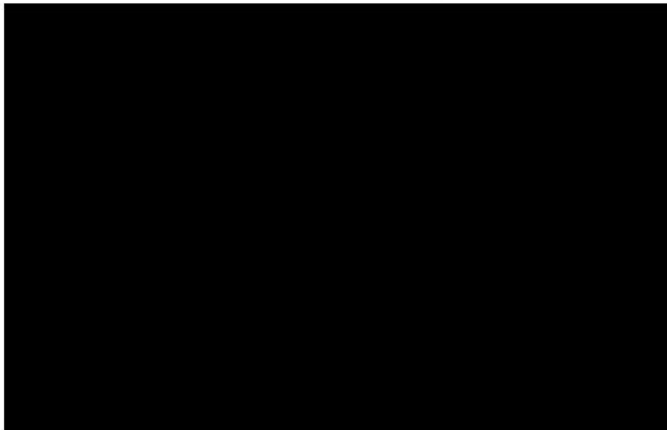
UNOFFICIAL

Hi David

Attached is a listing of medical practices with employees in the ACT.

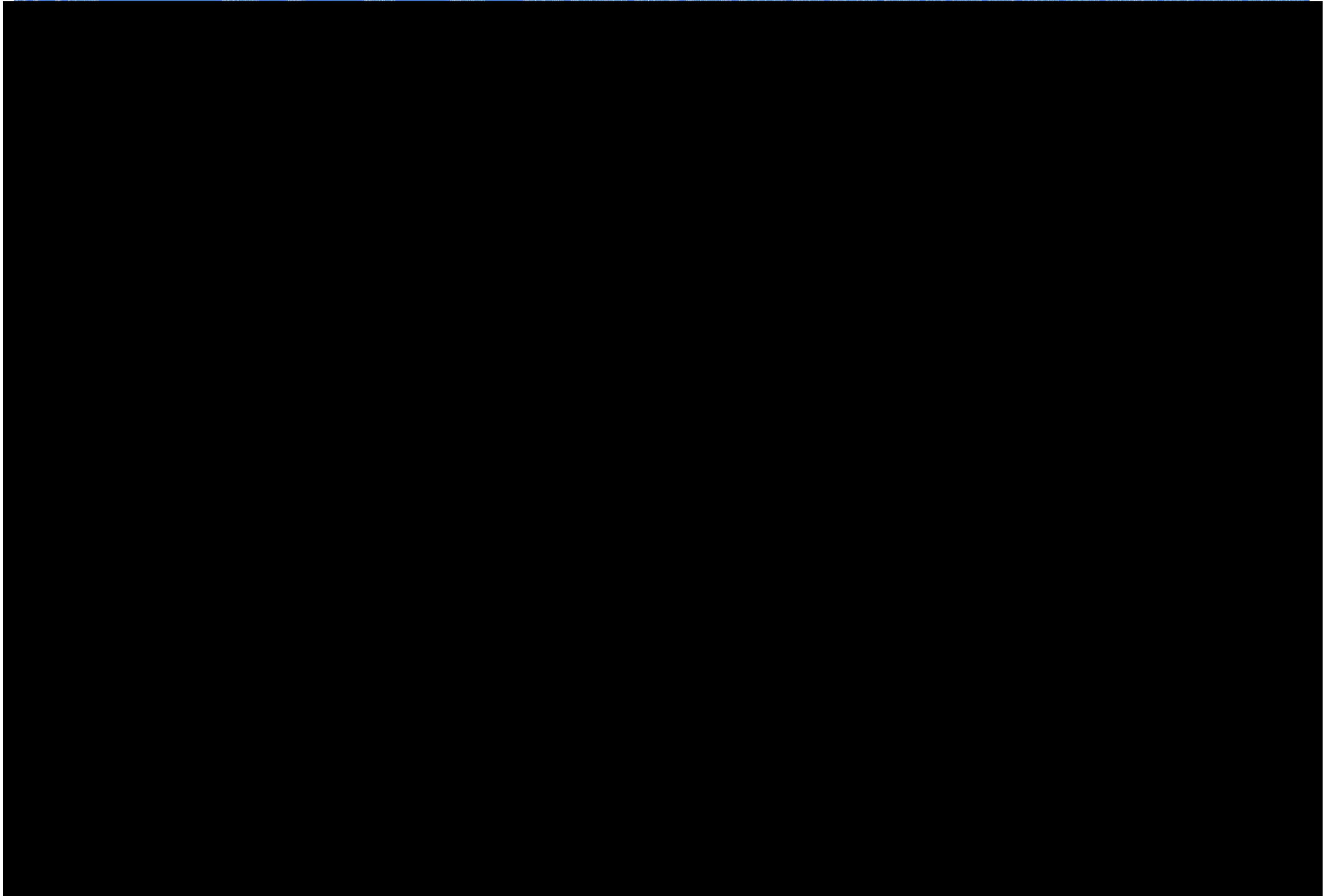
More specifically.

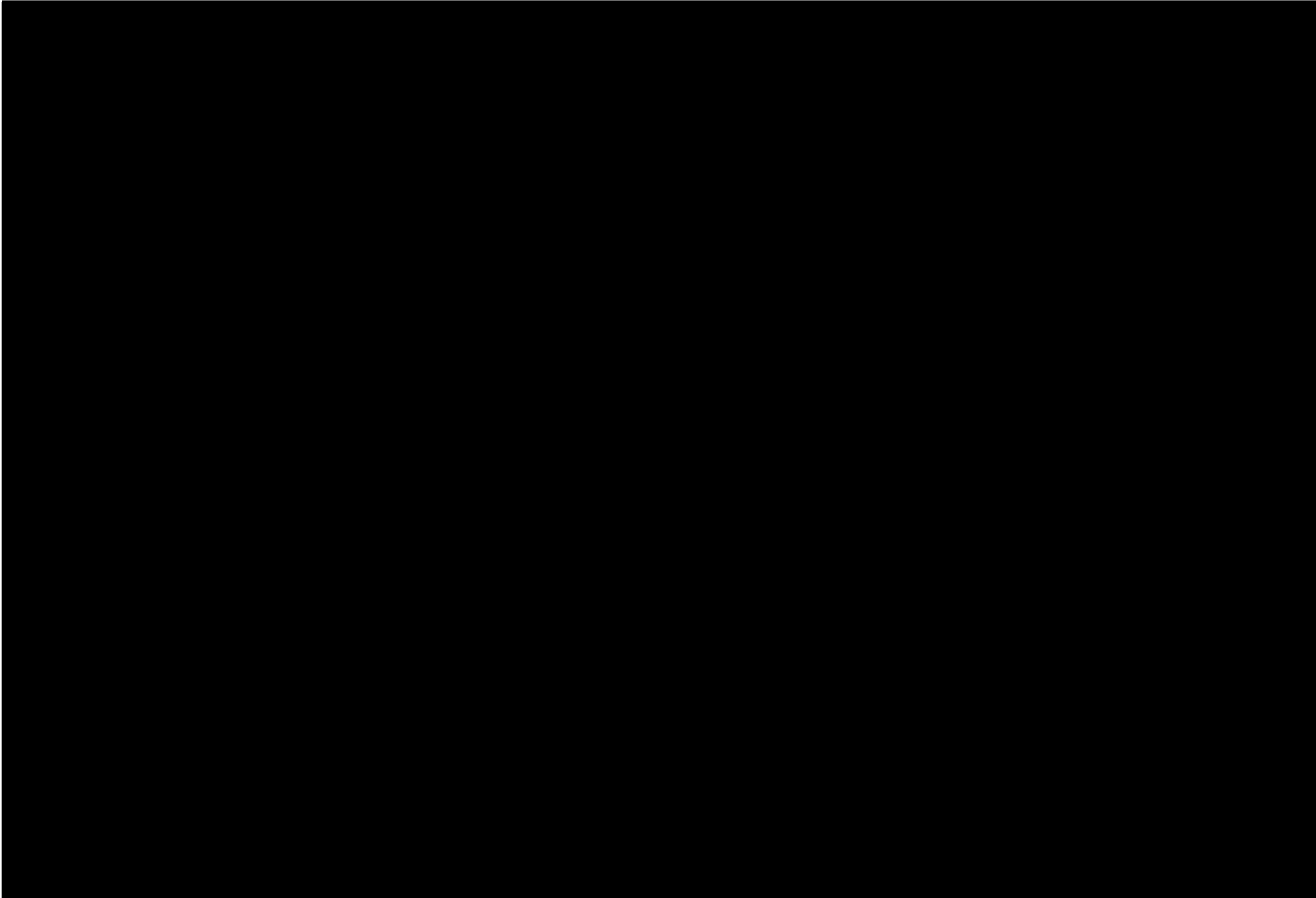
- Business with the following industry classifications

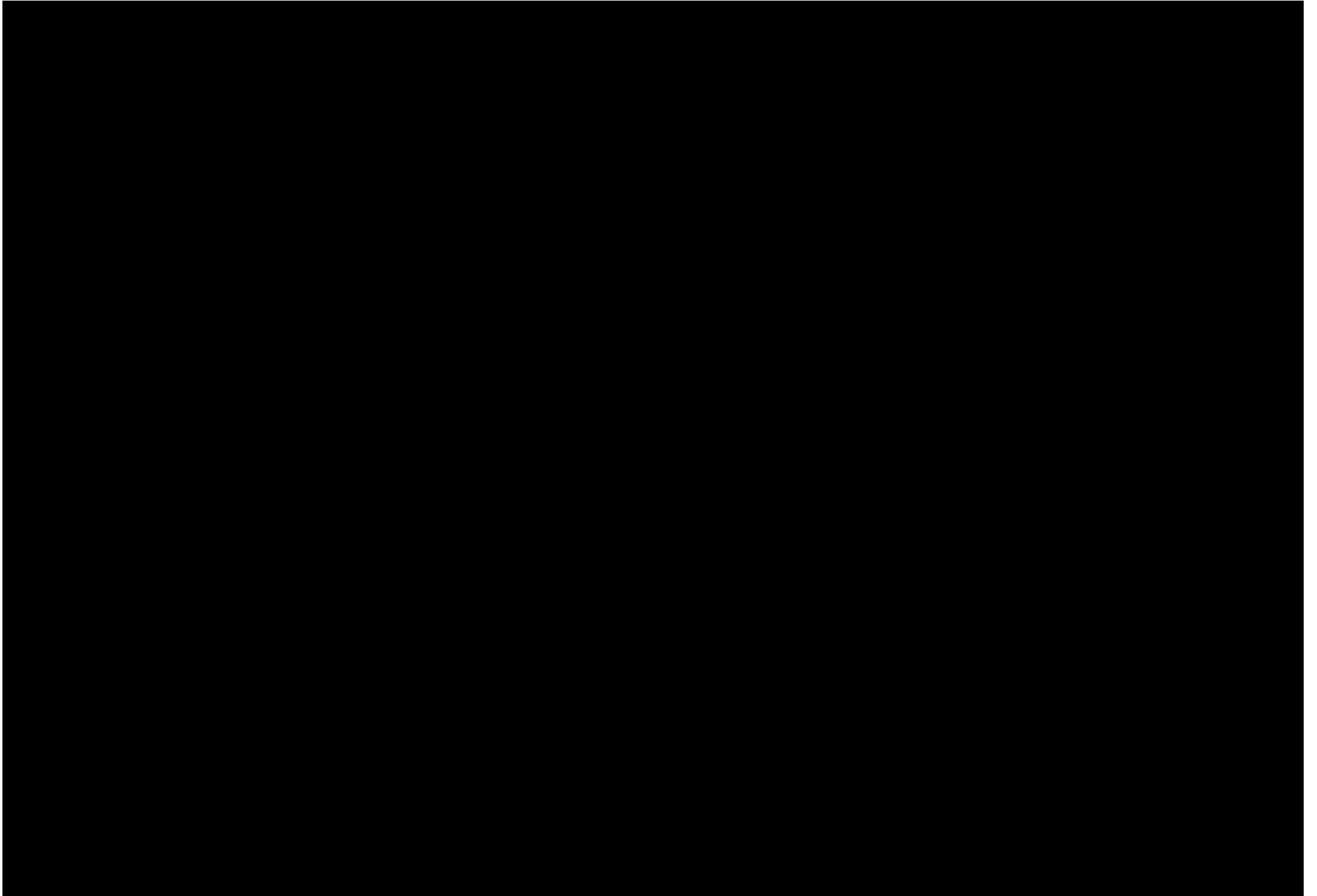


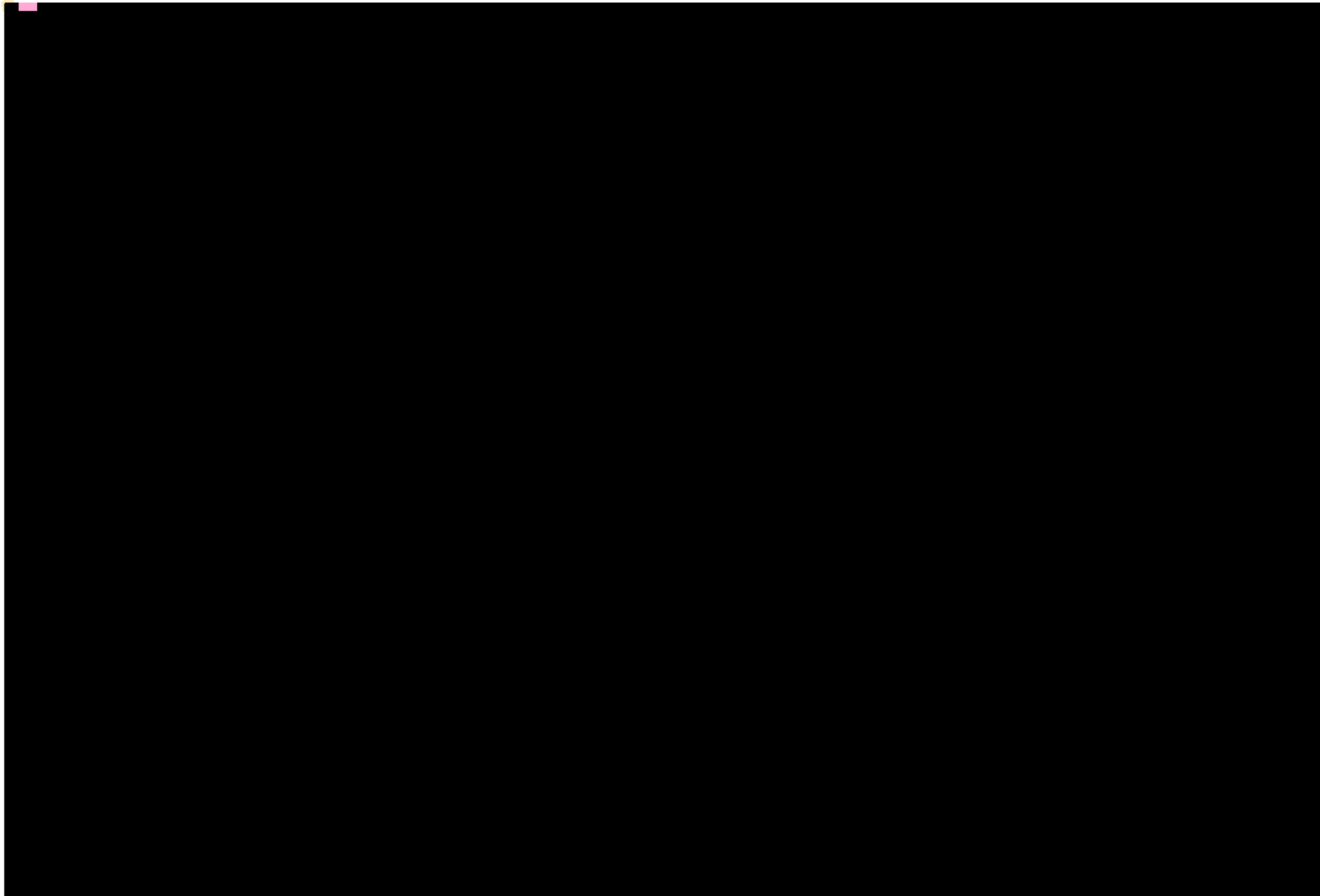
- Likely to have employees in the ACT, base on the ATO
- Include the [redacted] as provide by the ATO
- If registered for payroll tax with us I have included the [redacted]
[redacted]
- I have include [redacted] as provided to ABR and if registered with us the
[redacted]

...Best Regards Rino

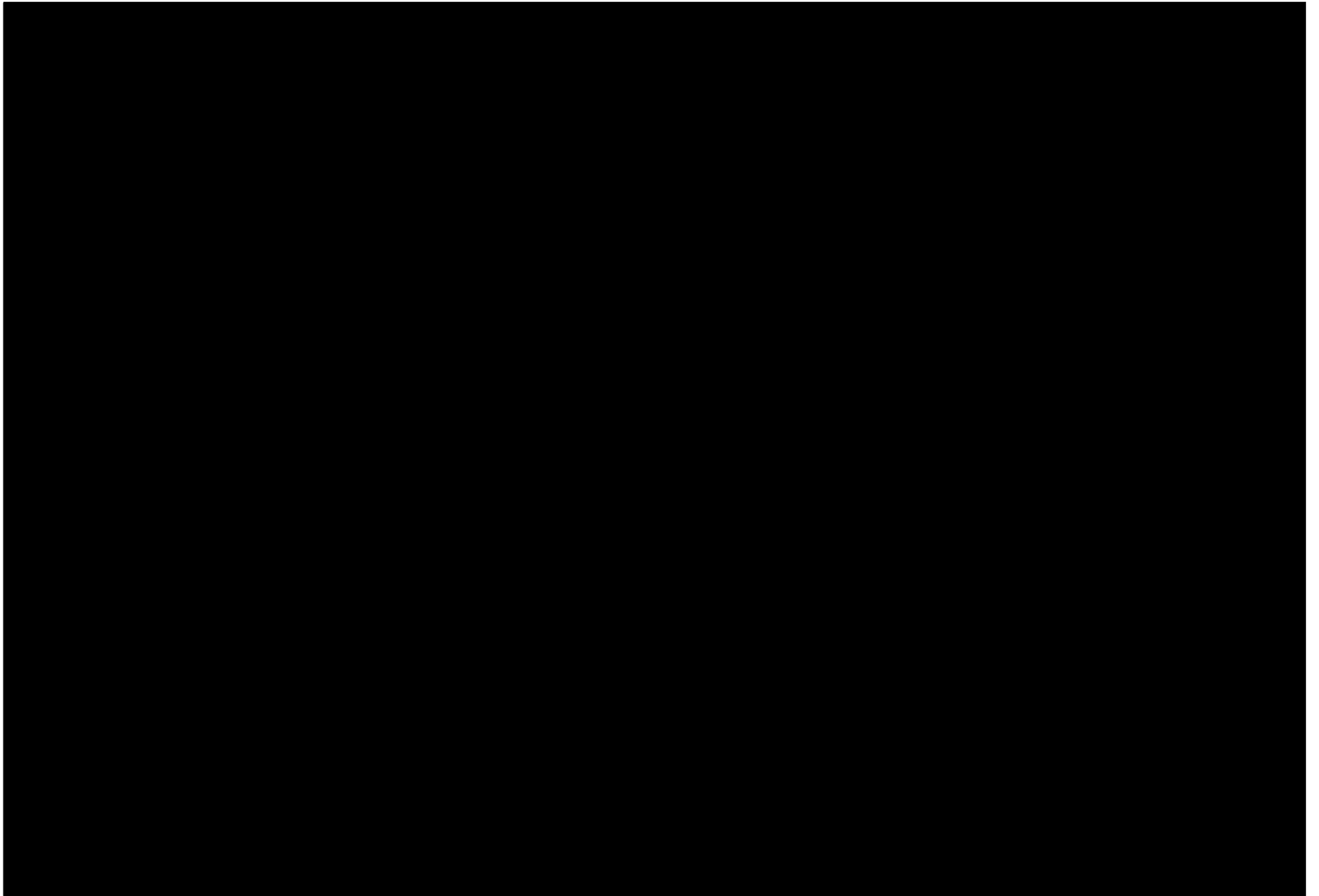


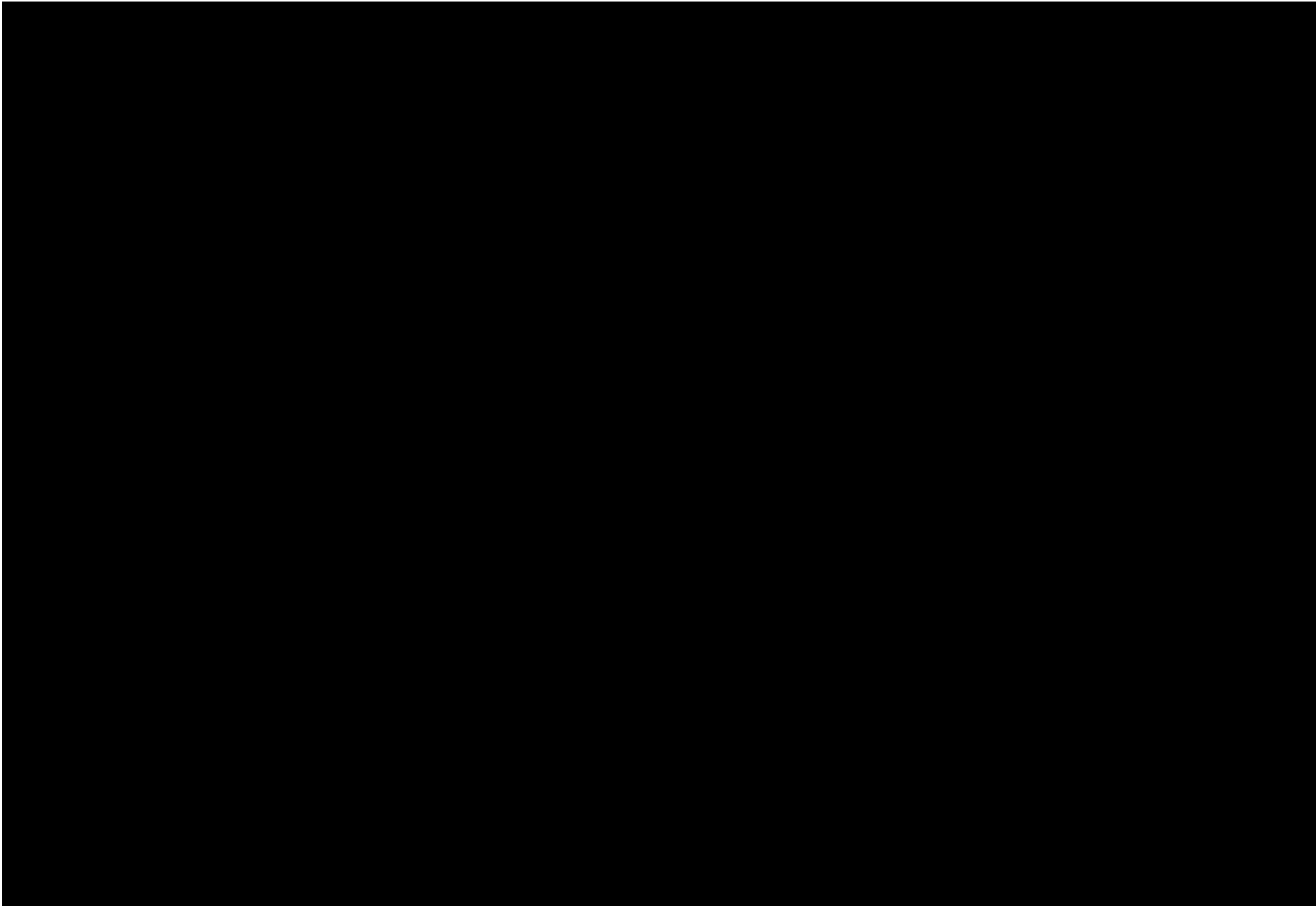


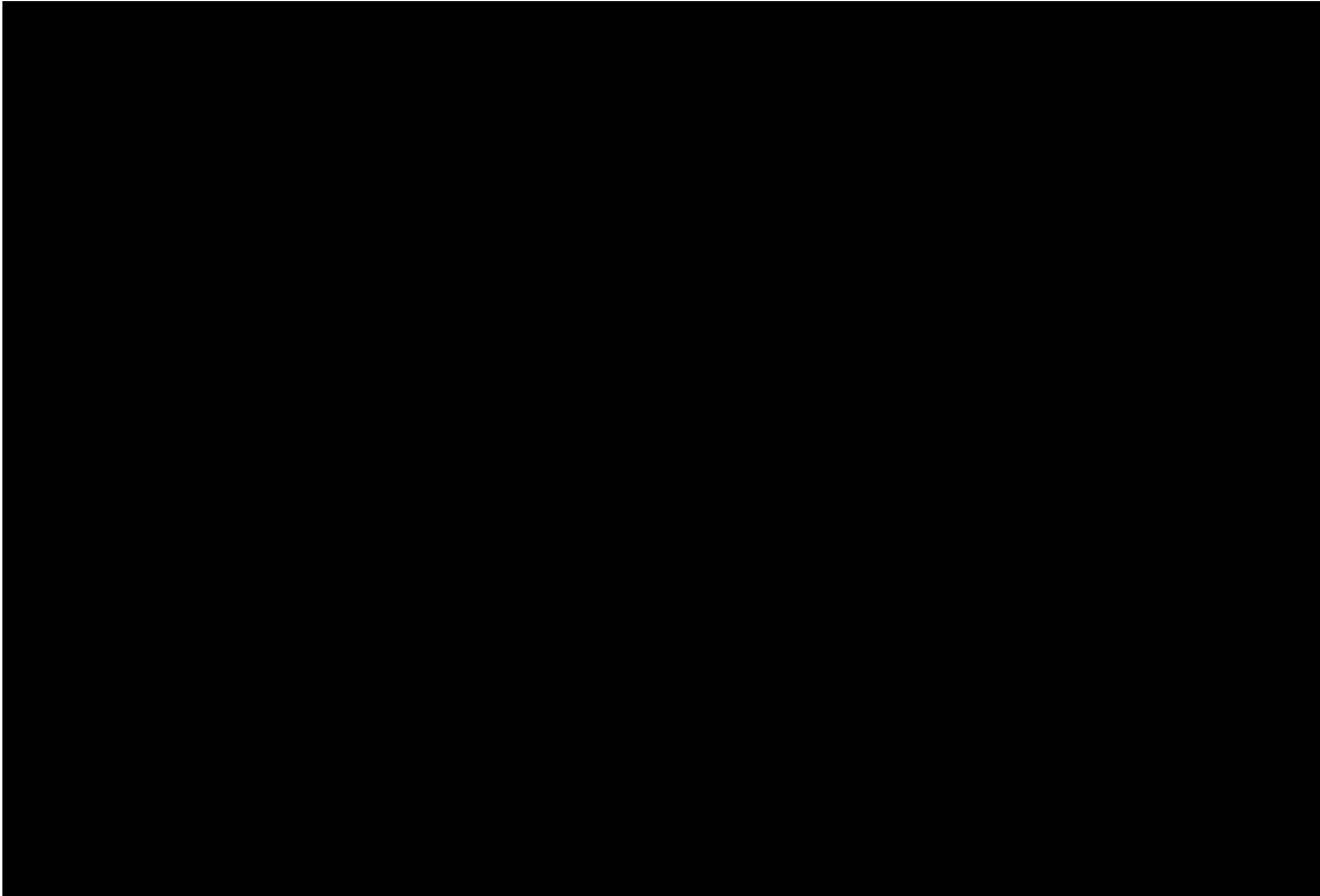


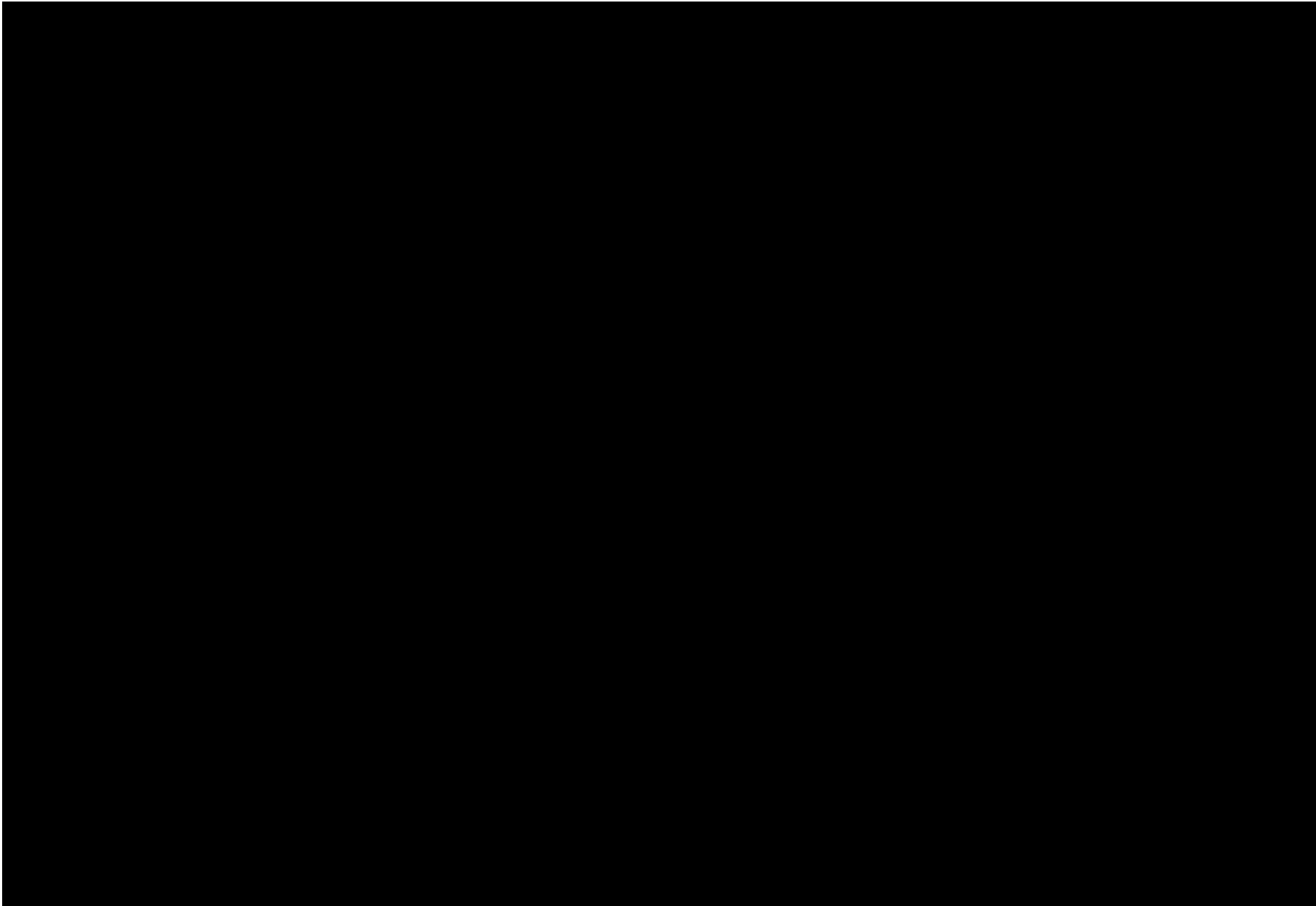


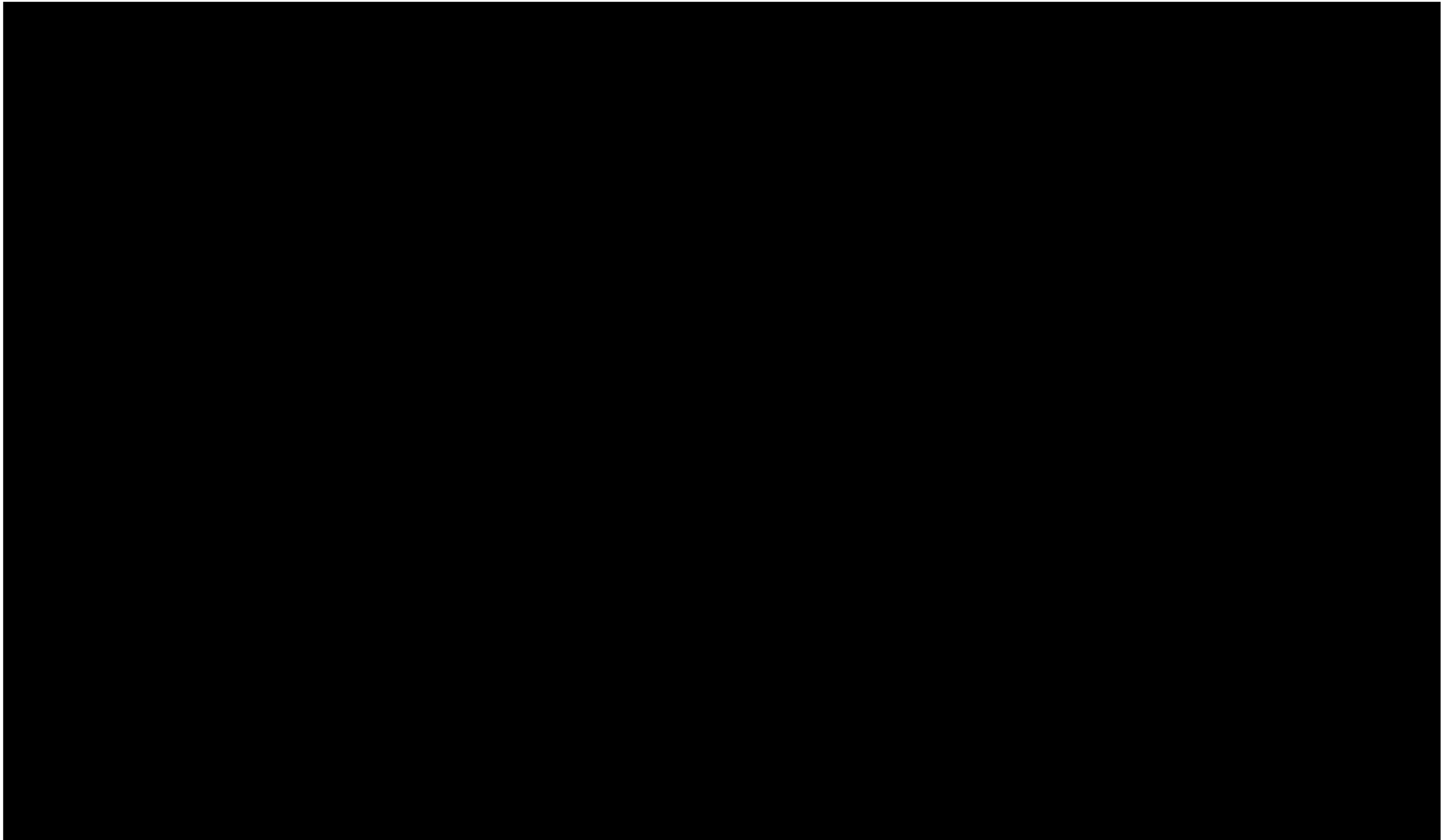












From: "Salisbury, Kim" <Kim.Salisbury@act.gov.au>
Sent: 15/02/2023 2:53 PM
To: "Ellis, David" <David.Ellis@act.gov.au>
Subject: RE: payroll tax on medical centres

OFFICIAL

Yes for discussion.

I read a couple of articles from fancy law firms, that suggest if the doctor is employing/paying the medical centre for the provisions of admin/ancillary medical services, then payroll tax can be avoided. Just a simple switcheroo in the engagement contract resolves the issue.

Kim Salisbury | Commissioner

Phone: +61 02 6207 0010 | kim.salisbury@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

From: Ellis, David <David.Ellis@act.gov.au>
Sent: Wednesday, 15 February 2023 10:39 AM
To: Salisbury, Kim <Kim.Salisbury@act.gov.au>
Subject: payroll tax on medical centres

OFFICIAL

Just a run-down of the main issues of payroll tax on medical centres ahead of our catch up:

1. The main cases have been Optical Superstores in Victoria (finalised 2020) and Thomas and Naaz in NSW (2022). The court decisions are pretty much final – the High Court refused to hear the Optical Superstore case as it didn't think there was enough ambiguity in the decision.
2. Queensland issued a ruling in December 2022 stating it intended to enforce the payroll tax position from the above cases.
3. In short, unless an exemption applies, payments from a medical centre to a doctor are liable for payroll tax. It doesn't matter how the payments find their way to the doctor, i.e. the patient can pay the doctor directly; or the medical centre can collect the consult and Medicare fee, take a percentage, and pay the rest to the doctor – these payments are all subject to payroll tax.
4. In Canberra, it's unlikely GP and other medical centres are paying payroll tax on payments to doctors/optometrists etc. For example, [REDACTED].

We'll need to decide a way forward.

David Ellis | Senior Director – Compliance

david.ellis@act.gov.au

02 6205 4811

From: "Salisbury, Kim" <Kim.Salisbury@act.gov.au>
Sent: 17/02/2023 10:56 AM
To: "Ellis, David" <David.Ellis@act.gov.au>
Subject: FW: Queensland payroll tax amnesty for medical centres

OFFICIAL

FYI

Kim Salisbury | Commissioner

Phone: +61 02 6207 0010 | kim.salisbury@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

From: Khan, FaheemK <FaheemK.Khan@act.gov.au>
Sent: Thursday, 16 February 2023 6:35 PM
To: Salisbury, Kim <Kim.Salisbury@act.gov.au>
Cc: Hocking, Stuart <Stuart.Hocking@act.gov.au>; Miners, Stephen <Stephen.Miners@act.gov.au>; Treasury DLO <TreasuryDLO@act.gov.au>; Ford, Blake <Blake.Ford@act.gov.au>
Subject: Re: Queensland payroll tax amnesty for medical centres

OFFICIAL

Thanks.

Yes, across the issue. QLD Tsr raised at BoT.

Could we please be kept in the loop as to any movements on this by other jurisdictions.

Faheem

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From: Salisbury, Kim <Kim.Salisbury@act.gov.au>
Sent: Thursday, February 16, 2023 5:20:50 PM
To: Khan, FaheemK <FaheemK.Khan@act.gov.au>
Cc: Hocking, Stuart <Stuart.Hocking@act.gov.au>; Miners, Stephen <Stephen.Miners@act.gov.au>; Treasury DLO <TreasuryDLO@act.gov.au>; Ford, Blake <Blake.Ford@act.gov.au>
Subject: Queensland payroll tax amnesty for medical centres

OFFICIAL

Faheem, not sure how familiar you are with this issue but for your information:

- The Queensland government has provided a 2 year amnesty (to 2025) for medical centres that have not been complying with payroll tax laws.
- Payments from a medical centre to a doctor are liable for payroll tax. It doesn't matter how the payments find their way to the doctor, i.e. the patient can pay the doctor directly; or the medical centre can collect the consult and Medicare fee, take a percentage, and pay the rest to the doctor – these payments are all subject to payroll tax.

- Recent cases, Optical Superstores in Victoria (2020) and Thomas and Naaz in NSW (2022) confirmed this position. Queensland SRO issued a ruling in December 2022 stating it intended to enforce payroll tax referencing these cases and issued compliance assessments.
- Doctors' associations threatened the shutdown of medical centres across Queensland and convinced the Queensland government to provide the amnesty.
- Other jurisdictions have not followed Queensland (as there has been no change to the law and no reason to provide an amnesty).
- The Media has enquired whether the ACT would provide a similar amnesty to that of Queensland.
- Providing amnesties for a certain class of business is highly inequitable. There will be medical centres currently complying and paying payroll tax. Other similar types of businesses (like [REDACTED] run on a similar model) will not be afforded the amnesty and will have to pay tax and penalties).
- Will the ACT Revenue Office be targeting medical centres? The tax compliance of medical centres is one of a number of considerations that ACTRO has regard to in determining the priorities for its compliance program. Compliance resources are directed to where there are the largest risks to revenue from taxpayer non-compliance.

Kim Salisbury | Commissioner

Phone: +61 02 6207 0010 | kim.salisbury@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

From: "Khan, FaheemK"
Sent: 17/02/2023 12:53 PM
To: "Dynon, Kaarin" <Kaarin.Dynon@act.gov.au>
Subject: Re: FOR APPROVAL: Media enquiry - Contractor GPs and payroll tax

Then suggest edit to:

We are not currently considering a similar arrangement.

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From: Dynon, Kaarin <Kaarin.Dynon@act.gov.au>
Sent: Friday, February 17, 2023 12:42 pm
To: Khan, FaheemK <FaheemK.Khan@act.gov.au>
Subject: Re: FOR APPROVAL: Media enquiry - Contractor GPs and payroll tax

Gov spokes, cleared by Kim

On 17 Feb 2023, at 12:41, Khan, FaheemK <FaheemK.Khan@act.gov.au> wrote:

Is that with Kim as the spokesperson? Or Government spokes? Or Chief?

Faheem Khan


From: Dynon, Kaarin <Kaarin.Dynon@act.gov.au>
Sent: Friday, 17 February 2023 12:29 PM
To: Khan, FaheemK <FaheemK.Khan@act.gov.au>
Subject: FW: FOR APPROVAL: Media enquiry - Contractor GPs and payroll tax

Checking you are OK with this response, am aware you are across this one!

Response to the *Medical Republic's* query about contractor GPs and payroll tax:

The ACT Revenue Office aware of Queensland's response, however we are not currently considering a grace period.

For your awareness, Kim Salisbury has cleared this response.

From: Holly Payne <holly@medicalrepublic.com.au>
Sent: Wednesday, 15 February 2023 4:23 PM
To: CMTEDDMedia <CMTEDDMedia@act.gov.au>
Subject: Media request: payroll tax

You don't often get email from holly@medicalrepublic.com.au. [Learn why this is important](#)

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Good afternoon,

I'm a reporter with The Medical Republic, we write news for GPs. I have been covering the unfolding payroll tax situation as it applies to contractor GPs and other medical professionals. Recent case law has clarified that contractor GPs are in fact practice employees, and liable to pay payroll tax. The peak medical bodies argue that paying payroll tax would force many practices out of business.

Two weeks ago, the Queensland government committed to a 2.5 year grace period for clinics that were unaware that they were non-compliant. Will ACT offer anything along those lines?

Thanks,
Holly Payne
Journalist

<image001.png>

E: holly@medicalrepublic.com.au

The Moose Republic
209/59 Great Buckingham Street, Redfern, Sydney, NSW, 2016

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From: "Kelly, Emma" <Emma.Kelly@act.gov.au> on behalf of "CMTEDDMedia" <CMTEDDMedia@act.gov.au>
Sent: 17/02/2023 1:44 PM
To: "CMTEDDMedia" <CMTEDDMedia@act.gov.au>; "Salisbury, Kim" <Kim.Salisbury@act.gov.au>; "Kelly, Emma" <Emma.Kelly@act.gov.au>
Cc: "Egan, Alexandra" <Alexandra.Egan@act.gov.au>; "Ellis, David" <David.Ellis@act.gov.au>; "Cross, Narelle" <Narelle.Cross@act.gov.au>; "Birkett, Joice" <Joice.Birkett@act.gov.au>; "Treasury Coord" <TreasuryCoord@act.gov.au>
Subject: RE: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Good afternoon

FYI – The following response was updated by the CMO and has been provided to the journalist:

We are not currently considering a similar arrangement.

Kind regards,
 Emma

From: Kelly, Emma <Emma.Kelly@act.gov.au> **On Behalf Of** CMTEDDMedia
Sent: Friday, 17 February 2023 12:29 PM
To: Salisbury, Kim <Kim.Salisbury@act.gov.au>; Kelly, Emma <Emma.Kelly@act.gov.au>; CMTEDDMedia <CMTEDDMedia@act.gov.au>
Cc: Egan, Alexandra <Alexandra.Egan@act.gov.au>; Ellis, David <David.Ellis@act.gov.au>; Cross, Narelle <Narelle.Cross@act.gov.au>; Birkett, Joice <Joice.Birkett@act.gov.au>; Treasury Coord <TreasuryCoord@act.gov.au>
Subject: RE: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Thanks, Kim.

Kind regards,
 Emma

From: Salisbury, Kim <Kim.Salisbury@act.gov.au>
Sent: Friday, 17 February 2023 10:59 AM
To: Kelly, Emma <Emma.Kelly@act.gov.au>; CMTEDDMedia <CMTEDDMedia@act.gov.au>
Cc: Egan, Alexandra <Alexandra.Egan@act.gov.au>; Ellis, David <David.Ellis@act.gov.au>; Cross, Narelle <Narelle.Cross@act.gov.au>; Birkett, Joice <Joice.Birkett@act.gov.au>; Treasury Coord <TreasuryCoord@act.gov.au>
Subject: FW: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Emma, the answer to the query is: *'No, the ACT Revenue Office is not considering a grace period'*

Further commentary is not required.

For your information, no other jurisdiction is following Queensland as their circumstances are somewhat unique.

Kim

Kim Salisbury | Commissioner

Phone: +61 02 6207 0010 | kim.salisbury@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

From: Treasury Coord <TreasuryCoord@act.gov.au>

Sent: Thursday, 16 February 2023 12:34 PM

To: Gardiner, Jodie <Jodie.Gardiner@act.gov.au>; OCRMD <OCRMD@act.gov.au>

Subject: FW: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Hi Jodie

Please see the below email trail. Can you please advise who would be best placed in Treasury to assist Emma Kelly in CMTEDD Media to draft a response?

Thank you

Narelle Cross

Coordination Manager

Phone: +61 2 6205 2093 | Email: narelle.cross@act.gov.au

Office of The Under Treasurer | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 1, 220 London Circuit | GPO Box 158, Canberra ACT 2601 | www.act.gov.au

Please note I currently work 9:30am-2:30pm Mon-Thurs and 9am-2pm Fri.

Managing work flexibly – I may send and respond to emails out of hours – there is no expectation on you to do the same.

From: Kelly, Emma <Emma.Kelly@act.gov.au> **On Behalf Of** CMTEDDMedia

Sent: Thursday, 16 February 2023 11:41 AM

To: Cross, Narelle <Narelle.Cross@act.gov.au>; Birkett, Joice <Joice.Birkett@act.gov.au>; CMTEDDMedia <CMTEDDMedia@act.gov.au>

Cc: Health Media <HealthMedia@act.gov.au>

Subject: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Hi Narelle and Joice

I've very recently joined the CMTEDD media team. We've received a media enquiry about contractor GPs being liable for payroll tax (please see below).

I'm not sure how significant this is in the context of the ACT's payroll tax threshold (I understand less than 10 per cent of Canberra businesses are liable).

Are you able to provide some guidance on which part of Treasury might be best placed to assist in drafting a response?

In terms of a deadline, we're hoping to have a response cleared by **midday tomorrow (Friday)**.

Please let me know if you have any questions or concerns.

NB: I've cc'd the health media team for awareness.

Many thanks,
Emma

From: Holly Payne <holly@medicalrepublic.com.au>

Sent: Wednesday, 15 February 2023 4:23 PM

To: CMTEDDMedia <CMTEDDMedia@act.gov.au>

Subject: Media request: payroll tax

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reporter with The Medical Republic, we write news for GPs. I have been covering the unfolding payroll tax situation as it applies to contractor GPs and other medical professionals. Recent case law has clarified that contractor GPs are in fact practice employees, and liable to pay payroll tax. The peak medical bodies argue that paying payroll tax would force many practices out of business.

Two weeks ago, the Queensland government committed to a 2.5 year grace period for clinics that were unaware that they were non-compliant. Will ACT offer anything along those lines?

Thanks,
Holly Payne
 Journalist



E: holly@medicalrepublic.com.au

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Sent: 17/02/2023 10:42 AM
To: "Ellis, David" <David.Ellis@act.gov.au>
Cc: "Egan, Alexandra" <Alexandra.Egan@act.gov.au>
Subject: RE: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

I backgrounded the TO on this issue last night and have the following response ready to go which I'm holding off until a little after midday, so that we are not the first jurisdiction to respond.

*The answer to the query is a simple 'No'.
I don't think we should provide any further commentary.
The Queensland situation is quite unique.*

Kim Salisbury | Commissioner

Phone: +61 02 6207 0010 | kim.salisbury@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

From: Ellis, David <David.Ellis@act.gov.au>
Sent: Friday, 17 February 2023 10:36 AM
To: Salisbury, Kim <Kim.Salisbury@act.gov.au>
Subject: FW: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Hi Kim

Alex is just chasing this up, not sure if you've had a chance to chat to the media people as yet. As for a response, something like "The ACT Revenue Office is not considering a grace period." would probably suffice

Thanks

David

From: Egan, Alexandra <Alexandra.Egan@act.gov.au>
Sent: Friday, 17 February 2023 8:58 AM
To: Ellis, David <David.Ellis@act.gov.au>
Subject: RE: MEDIA REQUEST: Contractor GPs and payroll tax

Hi David,

Just wondering if this one is still sitting with you? Just a reminder its due at midday today. 🕒

Thank you,

Alex Egan
Executive Support Officer
Office of the Commissioner

P: 02 6207 1621

E: Alexandra.egan@act.gov.au

W: www.revenue.act.gov.au

Respect, Integrity, Collaboration, Innovation - Better, Faster, Smarter



I acknowledge the traditional custodians of the ACT the Ngunnawal people, and their continuing connection to land and community. I pay my respect to them, and to the Elders both past and present.

From: Gardiner, Jodie <Jodie.Gardiner@act.gov.au>
Sent: Thursday, 16 February 2023 2:23 PM
To: Egan, Alexandra <Alexandra.Egan@act.gov.au>
Subject: FW: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Hi Alex – as discussed, can you please manage this one.

Thank you
Jodie

From: Ellis, David <David.Ellis@act.gov.au>
Sent: Thursday, 16 February 2023 1:21 PM
To: Gardiner, Jodie <Jodie.Gardiner@act.gov.au>
Subject: RE: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

It's with us. I'll talk to Commissioner about it

From: Gardiner, Jodie <Jodie.Gardiner@act.gov.au>
Sent: Thursday, 16 February 2023 1:18 PM
To: Ellis, David <David.Ellis@act.gov.au>
Subject: FW: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Hi David

Would this sit with you or EFG?

Thank you
Jodie

From: Treasury Coord <TreasuryCoord@act.gov.au>
Sent: Thursday, 16 February 2023 12:34 PM
To: Gardiner, Jodie <Jodie.Gardiner@act.gov.au>; OCRMD <OCRMD@act.gov.au>
Subject: FW: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Hi Jodie

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Coordination Manager

Phone: +61 2 6205 2093 | Email: narelle.cross@act.gov.au

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Sent: Thursday, 16 February 2023 11:41 AM

To: Cross, Narelle <Narelle.Cross@act.gov.au>; Birkett, Joice <Joice.Birkett@act.gov.au>; CMTEDDMedia <CMTEDDMedia@act.gov.au>

Cc: Health Media <HealthMedia@act.gov.au>

Subject: MEDIA REQUEST: Contractor GPs and payroll tax

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Sent: Wednesday, 15 February 2023 4:23 PM

To: CMTEDDMedia <CMTEDDMedia@act.gov.au>

Subject: Media request: payroll tax

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Cc: "Egan, Alexandra" <Alexandra.Egan@act.gov.au>; "Ellis, David" <David.Ellis@act.gov.au>; "Cross, Narelle" <Narelle.Cross@act.gov.au>; "Birkett, Joice" <Joice.Birkett@act.gov.au>; "Treasury Coord" <TreasuryCoord@act.gov.au>
Subject: FW: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

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Kim Salisbury | Commissioner

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To: Gardiner, Jodie <Jodie.Gardiner@act.gov.au>; OCRMD <OCRMD@act.gov.au>
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To: Cross, Narelle <Narelle.Cross@act.gov.au>; Birkett, Joice <Joice.Birkett@act.gov.au>; CMTEDDMedia <CMTEDDMedia@act.gov.au>
Cc: Health Media <HealthMedia@act.gov.au>
Subject: MEDIA REQUEST: Contractor GPs and payroll tax

OFFICIAL

Hi Narelle and Joice

I've very recently joined the CMTEDD media team. We've received a media enquiry about contractor GPs being liable for payroll tax (please see below).

I'm not sure how significant this is in the context of the ACT's payroll tax threshold (I understand less than 10 per cent of Canberra businesses are liable).

Are you able to provide some guidance on which part of Treasury might be best placed to assist in drafting a response?

In terms of a deadline, we're hoping to have a response cleared by **midday tomorrow (Friday)**.

Please let me know if you have any questions or concerns.

NB: I've cc'd the health media team for awareness.

Many thanks,
Emma

From: Holly Payne <holly@medicalrepublic.com.au>
Sent: Wednesday, 15 February 2023 4:23 PM
To: CMTEDDMedia <CMTEDDMedia@act.gov.au>
Subject: Media request: payroll tax

You don't often get email from holly@medicalrepublic.com.au. [Learn why this is important](#)

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Good afternoon,

I'm a

reporter with The Medical Republic, we write news for GPs. I have been covering the unfolding payroll tax situation as it applies to contractor GPs and other medical professionals. Recent case law has clarified that contractor GPs are in fact practice employees, and liable to pay payroll tax. The peak medical bodies argue that paying payroll tax would force many practices out of business.

Two weeks ago, the Queensland government committed to a 2.5 year grace period for clinics that were unaware that they were non-compliant. Will ACT offer anything along those lines?

Thanks,
Holly Payne
Journalist



E: holly@medicalrepublic.com.au

The Moose Republic

209/59 Great Buckingham Street, Redfern, Sydney, NSW, 2016

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Medical centres

Wednesday, 22 February 2023 10:58 AM

Meeting Date: 22/02/2023 11:00 AM

Location: Microsoft Teams Meeting

Invitation Message

Participants

- [Ellis, David](#) (Meeting Organizer)
- [Lim, Phang-Chun](#) (Accepted in Outlook)
- [Amalos, Paul](#) (Accepted in Outlook)
- [Amos, Louise](#) (Accepted in Outlook)
- [Black, Simone](#) (Accepted in Outlook)

Notes

Investigations notices from Qld?

When in 2019 was Victorian decision?

Differences in acts on wages btw Victoria, NSW and ACT? If any? Definition of paid or payable.

Map out 1 pager of plan.

Relevant cases: Thomas and Naaz v NSW, Optical Superstore v Victoria

<https://www.treasury.qld.gov.au/resource/ptaq000-6/>

<https://www.sro.vic.gov.au/legal-cases/optical-superstore-pty-ltd-v-csr-2020-hcasl-16>

<http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSCA/2019/197.html> Optical Superstore Court of Appeal **September 2019**

High Court Optical Superstore refusal to hear Feb 2020 [The Optical Superstore Pty Ltd as Trustee for OS Management S Trust & Ors v Commissioner of State Revenue \[2020\] HCASL 16 \(12 February 2020\) \(austlii.edu.au\)](#)

<https://www.mcw.com.au/brace-yourself-payroll-tax-update-to-create-major-challenges-for-queensland-medical-centres/>

<https://www.revenue.nsw.gov.au/help-centre/resources-library/case-summary/2022-nswcatap-220> Thomas and Naaz **June 2022**

Thomas and Naaz decision [Thomas and Naaz Pty Ltd \(ACN 101 491 703\) v Chief Commissioner of State Revenue - NSW Caselaw](#)

Thomas and Naaz 2023 decision- NSW Court of Appeal

[Thomas and Naaz Pty Ltd v Chief Commissioner of State Revenue - NSW Caselaw](#)

<https://www.ama.com.au/sa/resource/payroll-tax-webinar> South Australia AMA 55mins

<https://www.revenue.nsw.gov.au/help-centre/resources-library/case-summary/2016-nswcatad-270>
Windy 2016

Meeting with GSO Leszek Stawski 11 May 2023

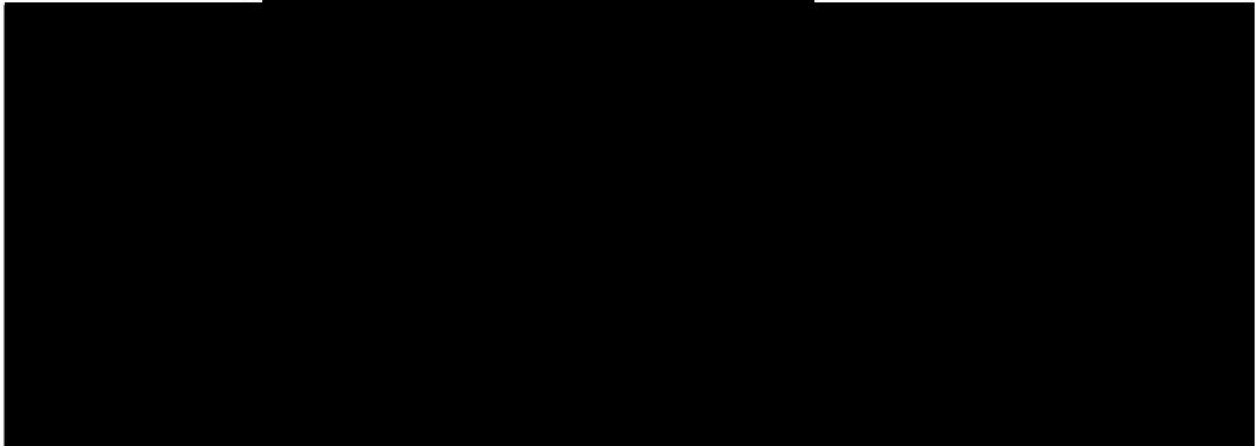
Meeting with Stephen Miners

No prima facie reasons to exempt GPs

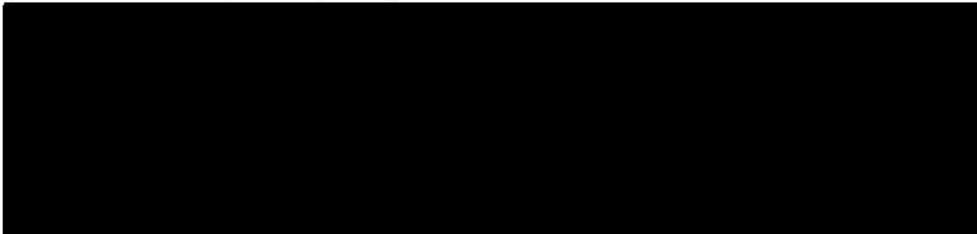
Giving an exemption without a clear reason - will provide a reason for other groups to ask, equity issues

Mimmi Dyll - Finance and budgets

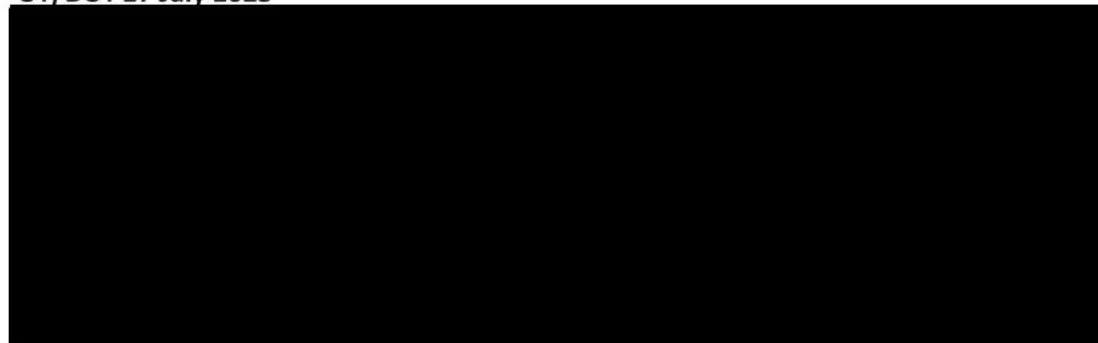
Queensland 26 July



South Australia - [redacted] 27 July 2023



UT/DUT 27 July 2023



From: "Ellis, David" <David.Ellis@act.gov.au>
Sent: 22/02/2023 10:39 AM
To: "Amalos, Paul" <Paul.Amalos@act.gov.au>; "Black, Simone" <Simone.Black@act.gov.au>; "Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>; "Amos, Louise" <Louise.Amos@act.gov.au>
Subject: FW: Queensland payroll tax amnesty for medical centres

OFFICIAL

Commissioner's views

From: Salisbury, Kim <Kim.Salisbury@act.gov.au>
Sent: Friday, 17 February 2023 10:56 AM
To: Ellis, David <David.Ellis@act.gov.au>
Subject: FW: Queensland payroll tax amnesty for medical centres

OFFICIAL

FYI

Kim Salisbury | Commissioner

Phone: +61 02 6207 0010 | kim.salisbury@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

From: Khan, FaheemK <FaheemK.Khan@act.gov.au>
Sent: Thursday, 16 February 2023 6:35 PM
To: Salisbury, Kim <Kim.Salisbury@act.gov.au>
Cc: Hocking, Stuart <Stuart.Hocking@act.gov.au>; Miners, Stephen <Stephen.Miners@act.gov.au>; Treasury DLO <TreasuryDLO@act.gov.au>; Ford, Blake <Blake.Ford@act.gov.au>
Subject: Re: Queensland payroll tax amnesty for medical centres

OFFICIAL

Thanks.

Yes, across the issue. QLD Tsr raised at BoT.

Could we please be kept in the loop as to any movements on this by other jurisdictions.

Faheem

Get [Outlook for iOS](#)

From: Salisbury, Kim <Kim.Salisbury@act.gov.au>
Sent: Thursday, February 16, 2023 5:20:50 PM
To: Khan, FaheemK <FaheemK.Khan@act.gov.au>
Cc: Hocking, Stuart <Stuart.Hocking@act.gov.au>; Miners, Stephen <Stephen.Miners@act.gov.au>; Treasury DLO <TreasuryDLO@act.gov.au>; Ford, Blake <Blake.Ford@act.gov.au>
Subject: Queensland payroll tax amnesty for medical centres

OFFICIAL

Faheem, not sure how familiar you are with this issue but for your information:

- The Queensland government has provided a 2 year amnesty (to 2025) for medical centres that have not been complying with payroll tax laws.
- Payments from a medical centre to a doctor are liable for payroll tax. It doesn't matter how the payments find their way to the doctor, i.e. the patient can pay the doctor directly; or the medical centre can collect the consult and Medicare fee, take a percentage, and pay the rest to the doctor – these payments are all subject to payroll tax.
- Recent cases, Optical Superstores in Victoria (2020) and Thomas and Naaz in NSW (2022) confirmed this position. Queensland SRO issued a ruling in December 2022 stating it intended to enforce payroll tax referencing these cases and issued compliance assessments.
- Doctors' associations threatened the shutdown of medical centres across Queensland and convinced the Queensland government to provide the amnesty.
- Other jurisdictions have not followed Queensland (as there has been no change to the law and no reason to provide an amnesty).
- The Media has enquired whether the ACT would provide a similar amnesty to that of Queensland.
- Providing amnesties for a certain class of business is highly inequitable. There will be medical centres currently complying and paying payroll tax. Other similar types of businesses (like [REDACTED] run on a similar model) will not be afforded the amnesty and will have to pay tax and penalties).
- Will the ACT Revenue Office be targeting medical centres? The tax compliance of medical centres is one of a number of considerations that ACTRO has regard to in determining the priorities for its compliance program. Compliance resources are directed to where there are the largest risks to revenue from taxpayer non-compliance.

Kim Salisbury | Commissioner

Phone: +61 02 6207 0010 | kim.salisbury@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

From: "Ellis, David" <David.Ellis@act.gov.au>
Sent: 22/02/2023 12:41 PM
To: "Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>; "Amalos, Paul" <Paul.Amalos@act.gov.au>; "Amos, Louise" <Louise.Amos@act.gov.au>; "Black, Simone" <Simone.Black@act.gov.au>
Subject: medical centres

→ [View shared notes](#)

Hi all

We'll need to come up with a position on what we do with payroll tax on medical centres sooner rather than later. It's worth discussing this separately ahead of the discussion on compliance plans more broadly.

Ahead of the meeting, please read:

QLD SRO ruling: <https://www.treasury.qld.gov.au/resource/ptaq000-6/>

Victoria SRO summary on optical superstores:

<https://www.sro.vic.gov.au/legal-cases/optical-superstore-pty-ltd-v-csr-2020-hcasl-16>

NSW SRO summary on Thomas and Naaz

<https://www.revenue.nsw.gov.au/help-centre/resources-library/case-summary/2022-nswcatap-220>

Microsoft Teams meeting

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Passcode: iUdoKf

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ACT
Government

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From: "Amos, Louise" <Louise.Amos@act.gov.au>
Sent: 22/02/2023 4:23 PM
To: "Black, Simone" <Simone.Black@act.gov.au>
Cc: "Amalos, Paul" <Paul.Amalos@act.gov.au>; "Amalos, Paul" <Paul.Amalos@act.gov.au>
Subject: Medical centres letter v1 [DLM=For-Official-Use-Only]
Attachments: Medical centres letter v1.docx

OFFICIAL

I just made a start- I need to look at our Act properly and our circulars to put the references in the letter. Very rough.

I have created a directory compliance/RM_projects/Payroll_tax/2023 – Medical Centres

Louise

Medical centres letter

Letter draft

Payroll tax is a State and Territory tax on wages that employers pay employees where wages are paid to a common law employee (part section of the PT Act). Liability for payroll tax will also arise if it is established amounts are paid under a relevant contract to a contractor (ACT Payroll Tax Act (2011) Section 32). Liability for payroll tax may also arise if it is established amounts are paid under a 'employment agency contract' to a service provider (part of the ACT).

However, not all businesses have to pay payroll tax. Employees in the ACT must pay payroll tax if the total taxable wages, or the total taxable wages of the group of employers you belong to, exceed the payroll tax threshold (currently \$2,000,000 per year or \$166,666.66 per month).

Taxable wages include wages, salary, commission, bonuses, allowances and other benefits, superannuation contributions, directors fees, leave and other accrued benefits on retirement or termination, eligible termination payments. Payments to contractors providing services under a relevant contract are also liable for payroll tax unless one or more of the exemptions (ACT Payroll Tax Act (2011) section 32(2)(a)) apply. The exemptions are designed to exclude payments to genuine independent contractors.

A contract between an entity that conducts a medical centre and a practitioner is a relevant **contract pursuant to s32** if all the following apply:

- a. the practitioner carries on a business or practice of providing medical related services to patients
- b. in the course of conducting its business, the medical centre
 - i. provides members of the public with access to medical-related services
 - ii. engages a practitioner to supply services to the medical centre by serving patients on its behalf
- c. an exemption **under s** does not apply

If you are registered for ACT payroll tax please review your payroll tax lodgements to ensure you have included payments to your practitioners in the 'service' contracts category of tax forms lodged for the 2019-20 to the 2021-22 financial years and the months for 2022-23. If these payments have not been include please make a voluntary disclosure, attaching all relevant documents, though the form on our [website](#).

If you are not registered for ACT payroll tax please provide a voluntary disclosure, attaching all relevant documents, though the [form](#) on our website. Also please register for ACT payroll tax by completing the [registration form](#) on our website

From: "Ellis, David" <David.Ellis@act.gov.au>
Sent: 22/02/2023 11:55 AM
To: "Amalos, Paul" <Paul.Amalos@act.gov.au>; "Amos, Louise" <Louise.Amos@act.gov.au>;
"Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>; "Black, Simone" <Simone.Black@act.gov.au>
Subject: medical centres notes

OFFICIAL

Investigations notices from Qld?
When in 2019 was Victorian decision?
Differences in acts on wages btw Victoria, NSW and ACT? If any? Definition of paid or payable.
Map out 1 pager of plan.

David Ellis | Senior Director – Compliance

david.ellis@act.gov.au

02 6205 4811

ACT Revenue Office | Chief Minister, Treasury & Economic Development Directorate

From: "Amalos, Paul"
Sent: 22/02/2023 4:35 PM
To: "Amos, Louise" <Louise.Amos@act.gov.au>; "Black, Simone" <Simone.Black@act.gov.au>
Cc: "Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>
Subject: RE: Medical centres letter v1 [DLM=For-Official-Use-Only]

OFFICIAL

Thanks Louise. I have saved some documents (doc & excel) looking at the comparison of the contractor provisions.

Paul Amalos | Director | Compliance

Phone: +61 2 6207 0100 | paul.amalos@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

Respect, Integrity, Collaboration, Innovation - Better, Faster, Smarter

Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.

From: Amos, Louise <Louise.Amos@act.gov.au>
Sent: Wednesday, 22 February 2023 4:23 PM
To: Black, Simone <Simone.Black@act.gov.au>
Cc: Amalos, Paul <Paul.Amalos@act.gov.au>; Amalos, Paul <Paul.Amalos@act.gov.au>
Subject: Medical centres letter v1 [DLM=For-Official-Use-Only]

OFFICIAL

I just made a start- I need to look at our Act properly and our circulars to put the references in the letter. Very rough.

I have created a directory compliance/RM_projects/Payroll_tax/2023 – Medical Centres

Louise

From: "Ellis, David"
Sent: 23/02/2023 3:31 PM
To: [REDACTED]
Cc: "Amalos, Paul" <Paul.Amalos@act.gov.au>
Subject: ACT Revenue Office visit to [REDACTED]
Attachments: Div 9.2 Powers of Investigation.pdf

OFFICIAL

Good afternoon

As discussed over the phone, the ACT Revenue Office intends to visit [REDACTED] for the purpose of asking questions and obtaining documents in relation to the administration of the *Payroll Tax Act 2011*. We will attend at **12pm on Tuesday 28 February**.

Our powers to attend premises, ask questions and obtain copies of documents are contained in Division 9.2 of the *Taxation Administration Act 1999* which is attached for your reference. An online version can be found at: www.legislation.act.gov.au

At this stage, the ACT Revenue Office is not conducting an audit of [REDACTED]. However, an audit may be conducted in the future – we will inform you if this is the case.

Without limiting the scope of the questions to be asked/documents to be obtained, we intend to ask the following:

1. Approximately how many [REDACTED] work at [REDACTED] at any one time?
2. Does [REDACTED] any [REDACTED] or casual [REDACTED]?
3. What are the contractual arrangements between the [REDACTED]? Is there a standard agreement? We would like copies of the agreements.
4. How are the [REDACTED] paid for services performed at [REDACTED]? Please outline the flow of funds between patients/Medicare/[REDACTED], including which bank accounts are used.
5. What were the amounts of payments to [REDACTED] for the most recent financial year (2021-22)?
6. What was the level of wages (including superannuation and fringe benefits) paid to non-medical staff at [REDACTED] in 2021-22?

Kind regards

David

David Ellis | Senior Director – Compliance

david.ellis@act.gov.au

02 6205 4811

ACT Revenue Office | Chief Minister, Treasury & Economic Development Directorate

Taxation Administration Act 1999

Division 9.2 Powers of investigation

82 Power to require information, instruments or records or attendance for examination

- (1) The commissioner may, for a purpose related to the administration or enforcement of a tax law, by written notice given to a person, require the person—
- (a) to provide to the commissioner (either orally or in writing) information that is described in the notice; or
 - (b) to attend and give evidence before the commissioner or an authorised officer; or
 - (c) to produce to the commissioner a record or other document described in the notice that is in the person’s custody or control.
- (2) If a notice to a person under subsection (1) is made to determine that person’s tax liability, the notice must state that the requirement is made for that purpose, but the commissioner is not otherwise required to identify a person in relation to whom any information, evidence, record or other document is required under this section.
- (3) The commissioner—
- (a) may specify whether information or evidence to be provided or given under this section must be given orally or in writing; and
 - (b) may require any information or evidence given in writing to be in the form of, or verified by, a statutory declaration; and
 - (c) may require any information or evidence given orally to be given on oath or affirmation.
- Note 1* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.
- Note 2* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).
- (4) A person must not, without reasonable excuse, fail—
- (a) to comply with the requirements of a notice under this section within the period specified in the notice or any further period allowed by the commissioner; or
 - (b) to comply with any other requirement of the commissioner about the giving of evidence or how information or evidence is to be provided or given under this section.
- Maximum penalty: 50 penalty units.
- (5) A person required to attend before an authorised officer to give oral evidence must be paid expenses in accordance with the scale of allowances determined under section 139.
- (6) Subsection (5) does not apply to a person, or a representative of a person, giving evidence in relation to the person’s own tax liability.

83 Powers of entry and inspection

(1) An authorised officer may, for a purpose related to the administration or enforcement of a tax law, enter and inspect any premises at any reasonable time and do any of the following:

- (a) remain on the premises;
- (b) examine all documents and seize and remove, or take copies of or extracts from, any document on behalf of the commissioner;
- (c) inspect any gaming machines and seize any gaming machine that the authorised officer believes on reasonable grounds to be connected with an offence against a tax law;
- (d) require any person on the premises to answer questions or otherwise give information, including information about the identity of the person or another person;
- (e) require any person on the premises to give access to any document in the person's custody or control, and to—
 - (i) produce or display the document; or
 - (ii) provide a copy of the document or a version of it in some form other than that in which it is normally kept;
 - in any printed, electronic or other form that it is reasonably practicable to provide;
- (f) require any person on the premises to produce any gaming machine in the person's custody or control;
- (g) require the owner or occupier of the premises to provide the authorised officer with the assistance and facilities that is or are reasonably necessary to enable the authorised officer to exercise powers under this part.

(2) An authorised officer who enters premises under subsection (1) and is requested by the occupier to identify himself or herself is not authorised to remain on the premises unless the authorised officer produces his or her identity card to the occupier.

(3) The powers of entry and inspection under this section must not be exercised in relation to premises, or a part of premises, used for residential purposes except with the consent of the owner or occupier of the premises or part.

(4) In this section:

identity card means—

- (a) an identity card issued under section 80 (1); or
- (b) an identity card approved under section 80 (2), together with a notice issued under section 79 (3) (b).

occupier, in relation to premises, includes a person apparently in charge of or responsible for the premises.

84 Search warrant

(1) If a magistrate is satisfied, on the application of the commissioner supported by an affidavit or other sworn evidence, that there is a reasonable ground for suspecting that a document relevant to the assessment or payment of tax may be found in certain

premises, the magistrate may issue a warrant authorising an authorised officer together with any assistants named or described in the warrant—

- (a) to enter those premises, using the force that is necessary for the purpose; and
- (b) to search the premises and to break open and search anything in the premises where a document or gaming machine may be stored or concealed; and
- (c) to seize and remove, on behalf of the commissioner—
 - (i) any document that appears to be relevant to the assessment or payment of tax; or
 - (ii) any gaming machine that the authorised officer believes on reasonable grounds to be connected with an offence against a tax law.
- (2) The powers given by this section are additional to, and do not limit, any other powers given under a law.

85 Use and inspection of documents and records produced or seized

- (1) This section applies to a document that has been produced to the commissioner or seized and removed by an authorised officer.
- (2) The document may be kept for as long as is reasonably necessary to enable it to be inspected, copies of, or extracts or notes from it to be made, and for a decision to be made about whether subsection (3) applies.
- (3) If the document is liable to tax, it may be kept until the tax is paid.
- (4) If the document is required by the commissioner as evidence for the purposes of a legal proceeding, it may be kept until the proceeding is finally decided.
- (5) The commissioner must permit a person who would be entitled to inspect the document if it were not in the possession of the commissioner to inspect the document at any reasonable time.
- (6) This section does not prejudice a lien a person has on the document.

86 Use of goods produced or seized

- (1) This section applies to any thing, other than a document, that has been produced to the commissioner or seized and removed by an authorised officer.
- (2) The thing may be kept for as long as is reasonably necessary to enable it to be inspected and for a decision to be made about whether subsection (3) applies.
- (3) If the thing is liable to tax, it may be kept until the tax is paid.
- (4) If the thing is required by the commissioner as evidence for the purposes of a legal proceeding, it may be kept until the proceeding is finally decided.
- (5) If the owner of the thing is convicted as a result of the legal proceeding, the court may direct that the thing be forfeited to the Territory, and in that case it may be disposed of as the Minister directs.
- (6) If the thing is no longer required by the commissioner, but the commissioner is unable to return it to the owner within 12 months despite reasonable efforts to do so (for example, because the owner has left the ACT), the commissioner may direct that

the thing be disposed of by auction and the proceeds held for the owner instead of the thing.

(7) This section does not prejudice a lien a person has on the thing.

87 Self-incrimination

(1) A person is not excused from answering a question, providing information or producing a document, when required to do so under section 71 or section 82, on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(2) If the person objects to answering the question, providing the information or producing the document on that ground, the answer, information or document is not admissible against the person in any criminal proceeding other than—

(a) a proceeding for an offence in relation to false or misleading statements, information or records; or

(b) a proceeding for an offence in the nature of perjury.

88 Failing to comply with requirement of inspector

(1) A person must not, without reasonable excuse, fail to comply with a requirement of an authorised officer under this division.

Maximum penalty: 50 penalty units.

(2) A person does not commit an offence against this section arising from the entry of an authorised officer onto premises unless it is established that, at the material time, the authorised officer had—

(a) identified himself or herself as an authorised officer; and

(b) warned the person that a refusal or failure to comply with the requirement constituted an offence.

90 Access to public records without fee

The commissioner may inspect and take copies of any public record kept under an Act or other territory law without payment of any fee that would otherwise be payable.

From: [Ciaccia, Rino](#)
To: [Amos, Louise](#)
Cc: [Amalos, Paul](#); [Black, Simone](#)
Subject: RE: Medical Practices listing [DLM=For-Official-Use-Only]
Date: Thursday, 23 February 2023 11:58:15 AM
Attachments: [MedicalPracticesOperatingInACTFeb2023_WithPostalAddress.xlsx](#)

UNOFFICIAL

Here you go. With Postal address sourced from the ATO ..

From: Amos, Louise <Louise.Amos@act.gov.au>
Sent: Thursday, 23 February 2023 10:39 AM
To: Ciaccia, Rino <Rino.Ciaccia@act.gov.au>
Cc: Amalos, Paul <Paul.Amalos@act.gov.au>; Black, Simone <Simone.Black@act.gov.au>
Subject: RE: Medical Practices listing [DLM=For-Official-Use-Only]

UNOFFICIAL

Hi Rino, as discussed earlier today can we also please have the ASIC Registered Address and the ASIC Business Address to enable us to post letter.

Thanks
Louise

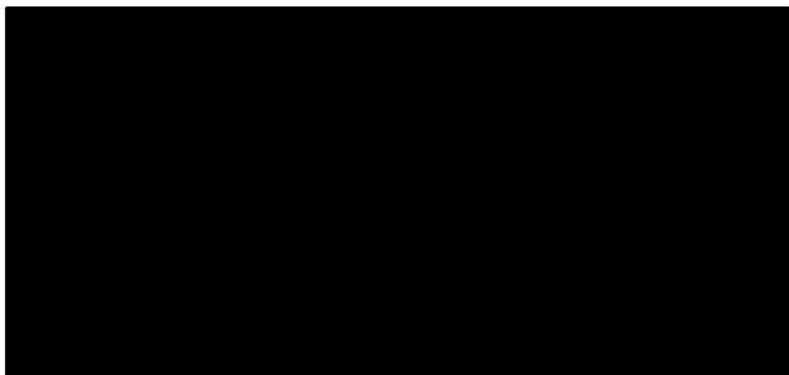
From: Ciaccia, Rino <Rino.Ciaccia@act.gov.au>
Sent: Tuesday, 14 February 2023 5:03 PM
To: Ellis, David <David.Ellis@act.gov.au>
Cc: Amos, Louise <Louise.Amos@act.gov.au>; Amalos, Paul <Paul.Amalos@act.gov.au>
Subject: Medical Practices listing




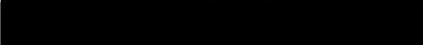


UNOFFICIAL

Hi David

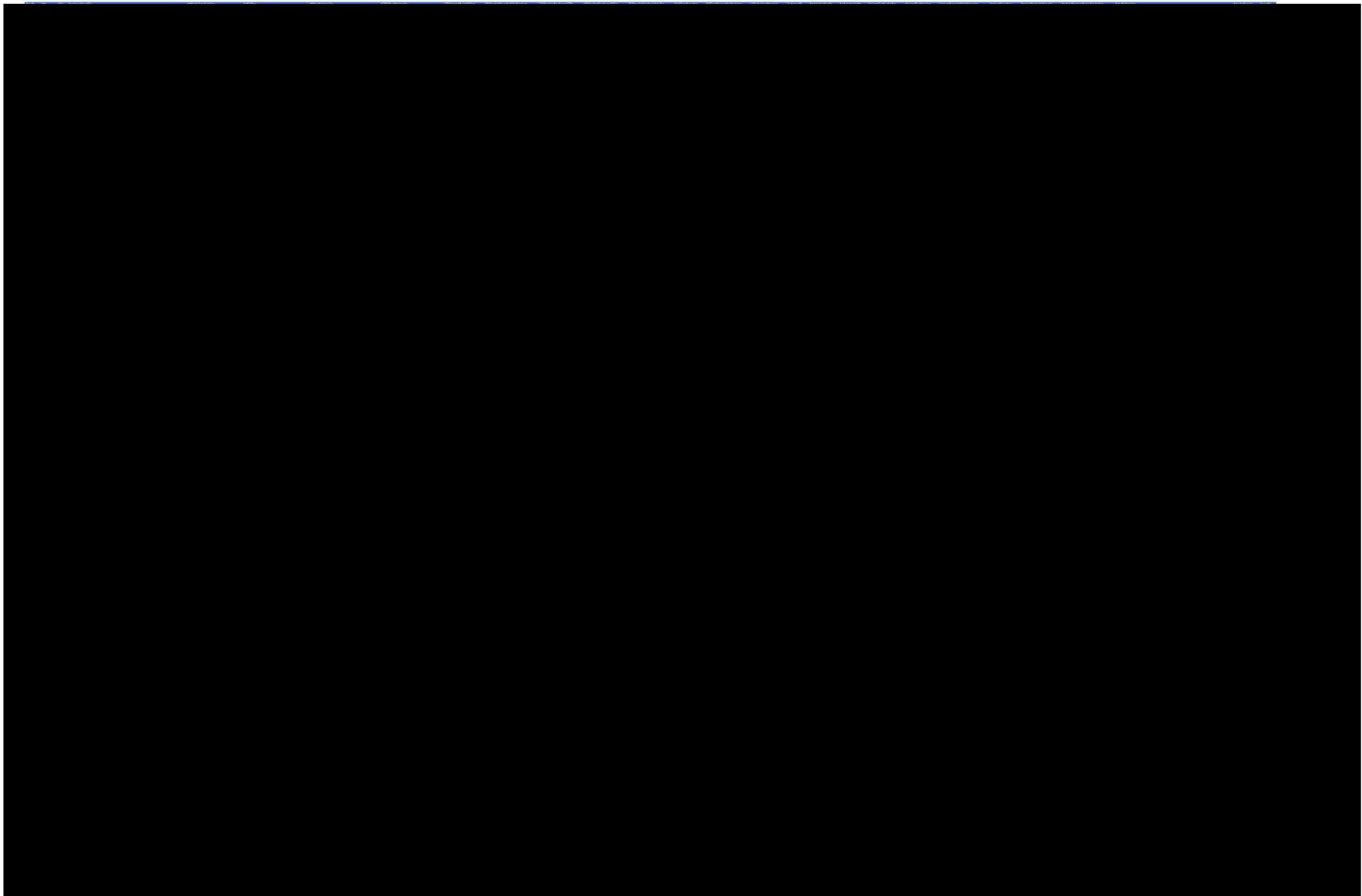
Attached is a listing of medical practices with employees in the ACT.

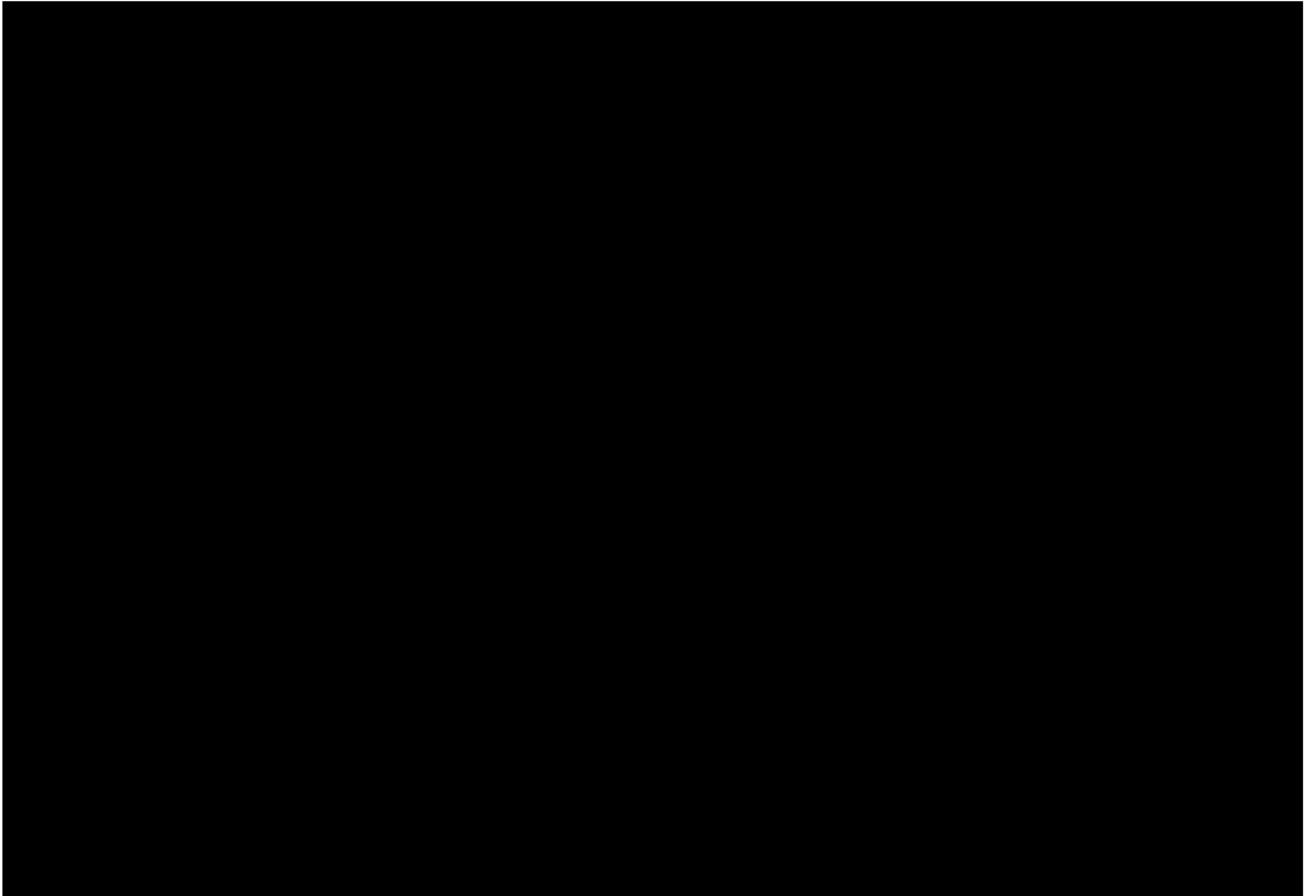
More specifically.

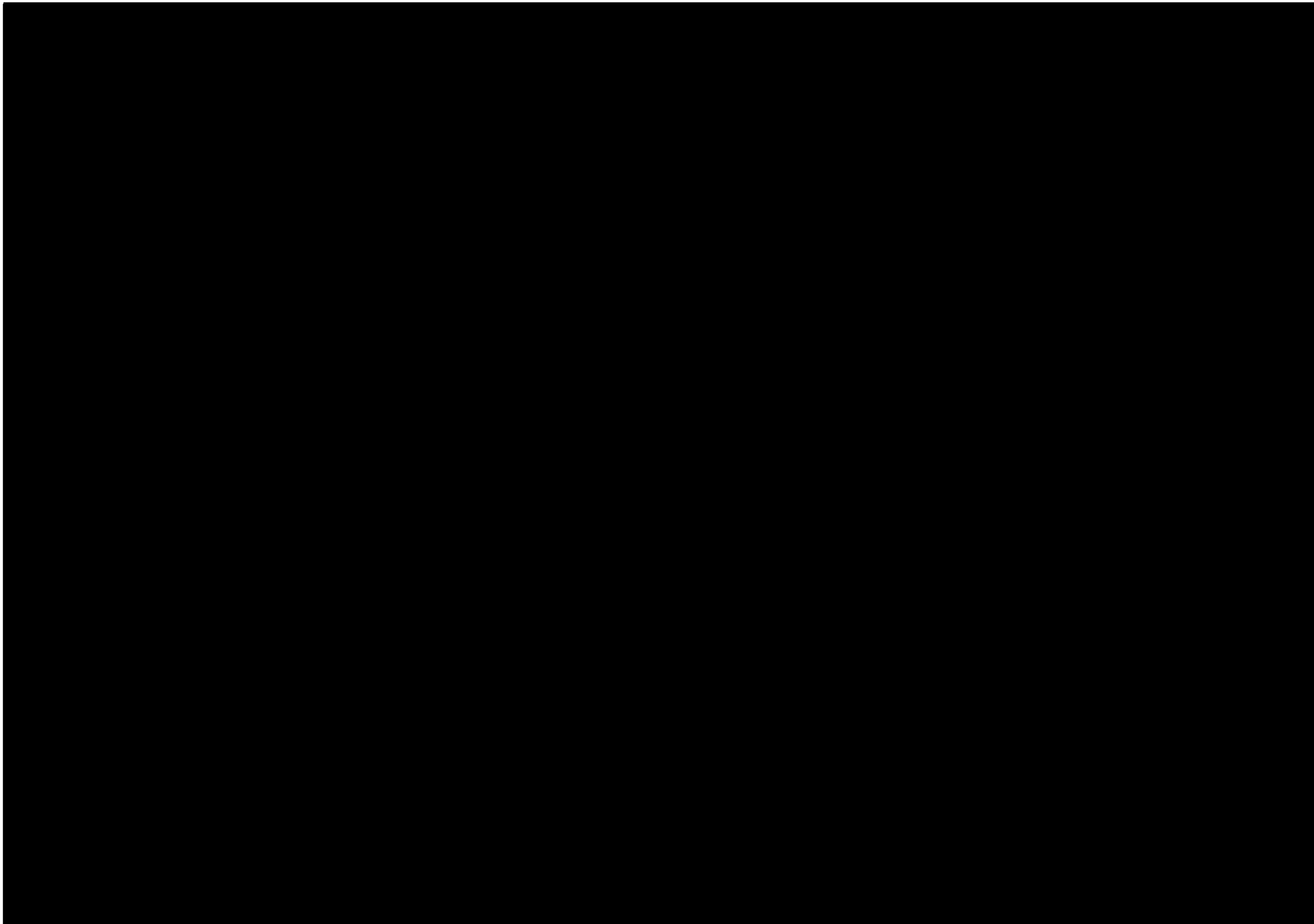


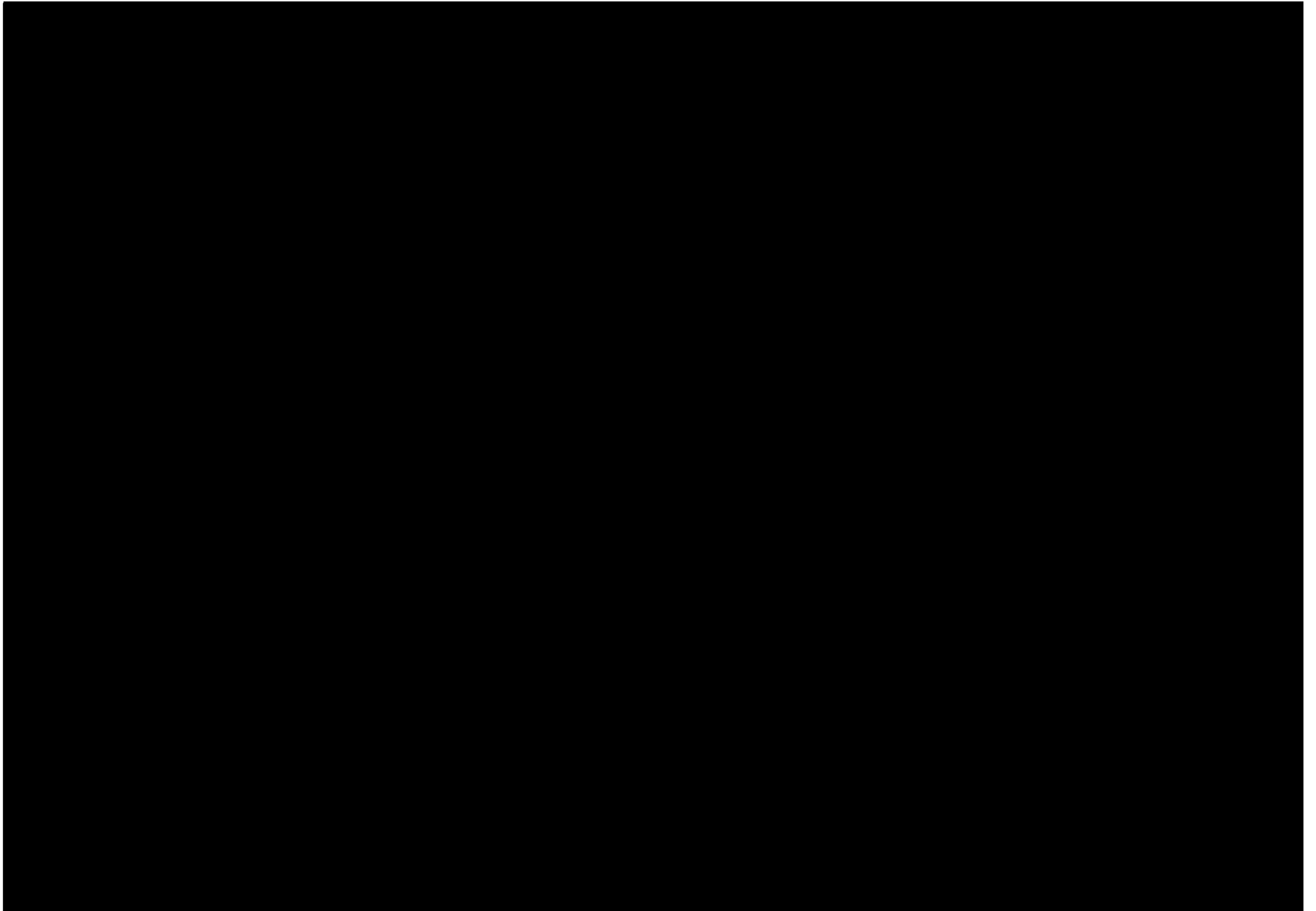
- 
- Likely to have employees in the ACT, base on the ATO
 - Include the  as provide by the ATO
 - If registered for payroll tax with us I have included the 

 - I have include the  as provided to ABR and if registered with us the


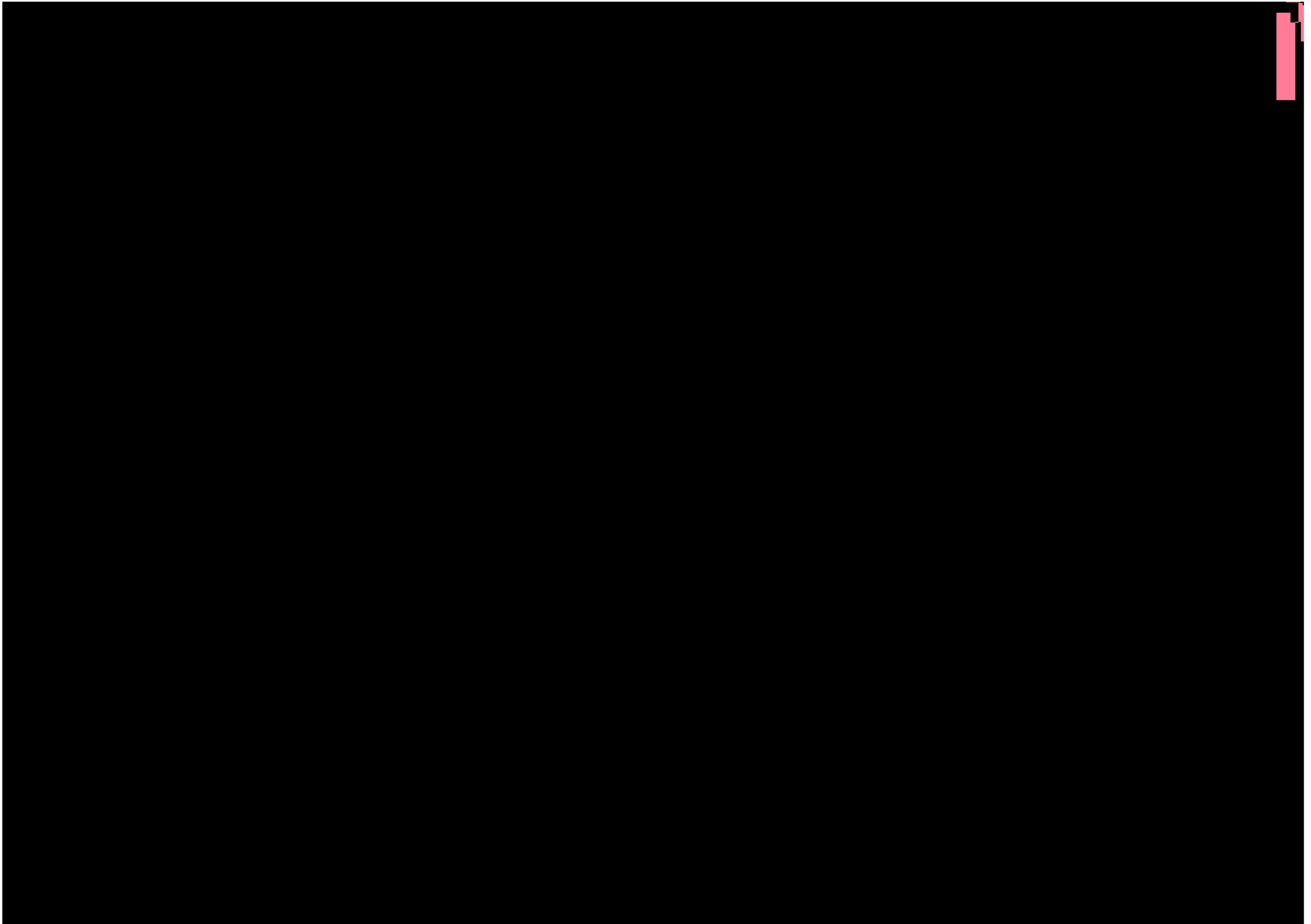
...Best Regards Rino

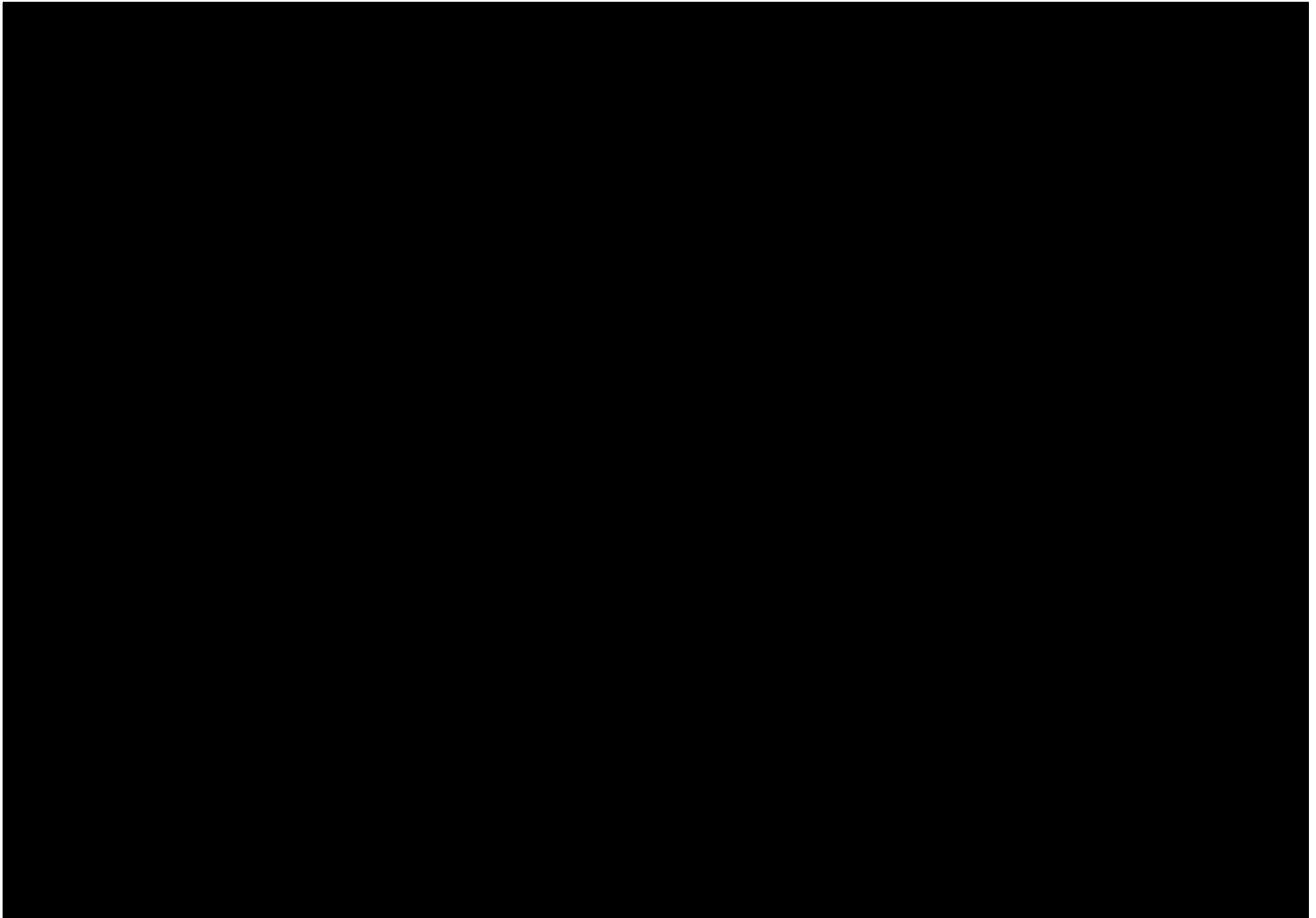


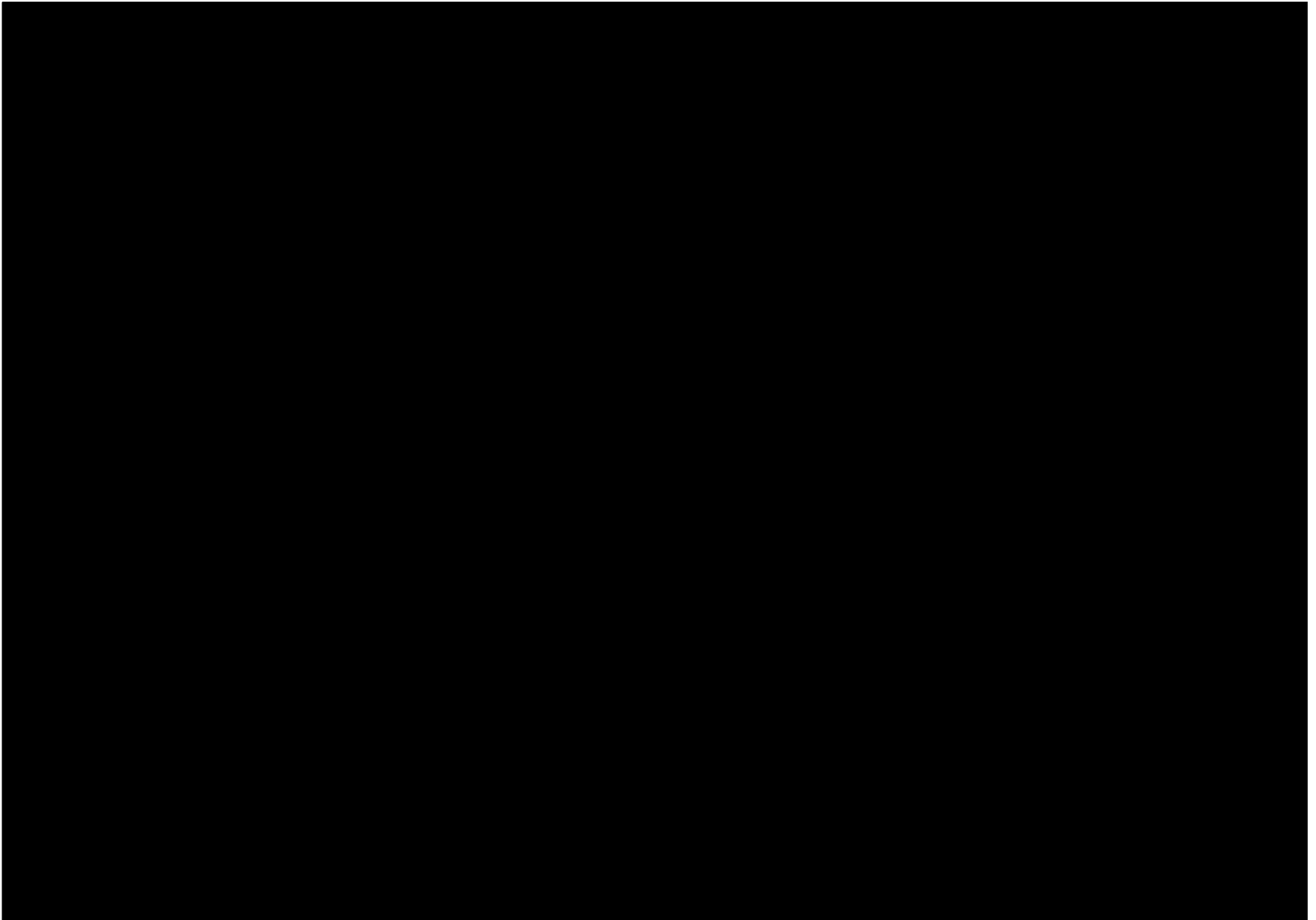


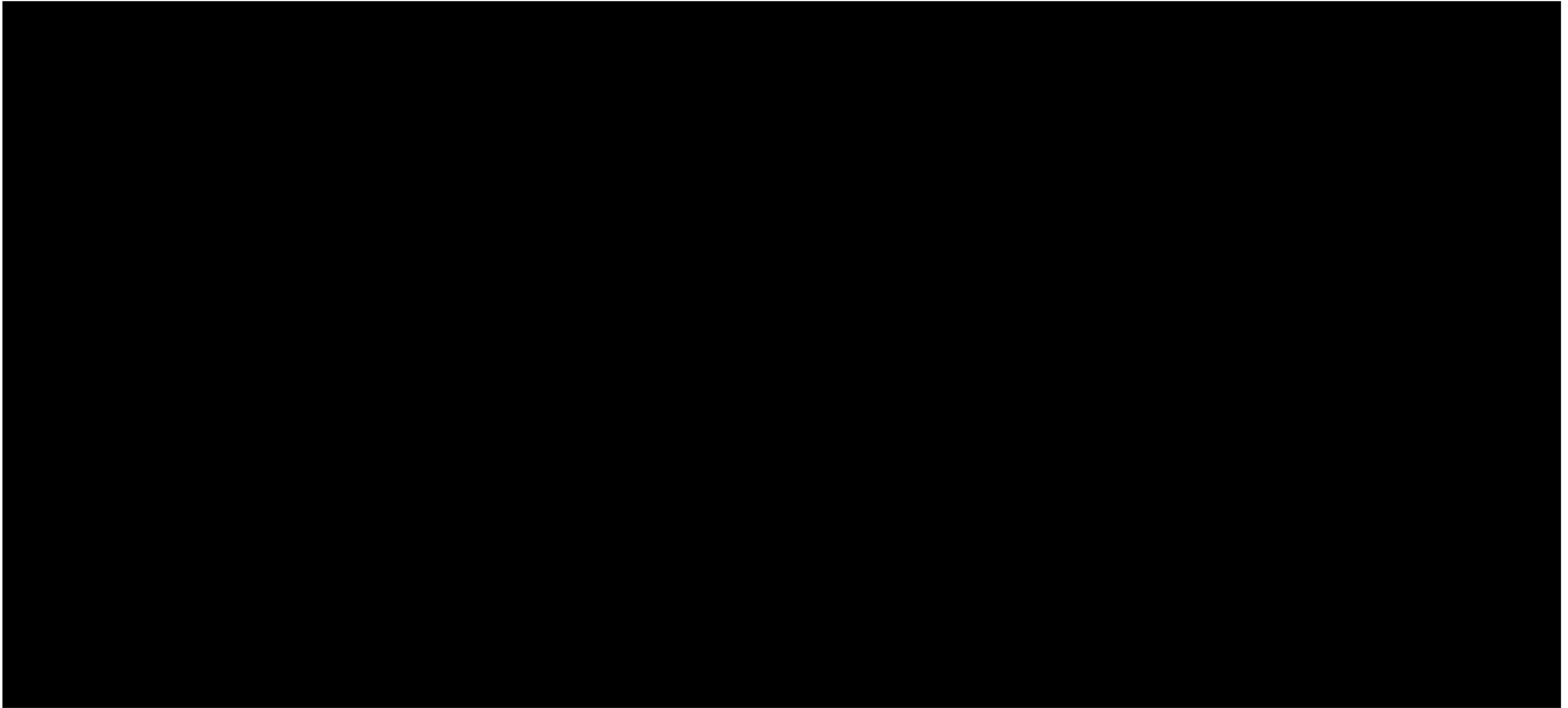












From: [REDACTED]
Sent: 23/02/2023 11:59 AM
To: "Amalos, Paul" <Paul.Amalos@act.gov.au>
Cc: [REDACTED]
Subject: FW: [EXTERNAL] Payroll Tax - Medical Centres

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SENSITIVE

Good morning, Paul – hope you're well.

[REDACTED]

Happy to discuss further if you like – you can reach me on [REDACTED] today until about 1430 AEST, or I'll be back in the office from 0730 AEST tomorrow.



[REDACTED]
 Manager
 Audit and Investigations (Payroll Tax, Duties and
 Grants)
 Queensland Revenue Office

W www.qld.gov.au/qro

From: Amalos, Paul <Paul.Amalos@act.gov.au>
Sent: Thursday, February 23, 2023 9:25 am
To: [REDACTED]
Subject: RE: [EXTERNAL] Payroll Tax - Medical Centres

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OFFICIAL

Hi [REDACTED]

Not so much going to talk about your position on the matter. Was looking more for examples of potential template letters that your office may have issued. Happy for [REDACTED] to give me a call, however, I am about to go into a meeting till 12pm (I believe we are an hour in front of your time).

Paul Amalos | Director | Compliance

Phone: +61 2 6207 0100 | paul.amalos@act.gov.au

ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government

PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

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From: [REDACTED]
Sent: Thursday, 23 February 2023 9:50 AM
To: Amalos, Paul <Paul.Amalos@act.gov.au>
Subject: RE: [EXTERNAL] Payroll Tax - Medical Centres

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Hi Paul,
 would you like to discuss our

position on this issue as my colleague [REDACTED] (Director of the PRT Audit division) is fully across the issues and I could arrange for her to call?

Regards



[REDACTED]
 Director
 Audit & Investigation - Royalty, Land Tax & Complex
 Strategy & Compliance
 Queensland Revenue Office

W www.qld.gov.au/gro

From: Amalos, Paul <Paul.Amalos@act.gov.au>
Sent: Thursday, 23 February 2023 8:37 AM
To: [REDACTED]
Subject: [EXTERNAL] Payroll Tax - Medical Centres

CAUTION: This email originated from outside Queensland Treasury. Do not click links or open attachments unless you recognise the sender and know the content is safe.

OFFICIAL

Good morning [REDACTED]

Just wondering if you had some time to chat about medical centres and payroll tax. I can be reached on the below number.

Thanks

Paul Amalos | Director | Compliance

Phone: +61 2 6207 0100 | paul.amalos@act.gov.au

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From: "Amalos, Paul"
Sent: 23/02/2023 3:28 PM
To: "Black, Simone" <Simone.Black@act.gov.au>; "Amos, Louise" <Louise.Amos@act.gov.au>;
"Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>
Subject: Medica Centre - Draft Plan

OFFICIAL

Hi all

I have put together a draft plan concerning the Medical Centre project for your review and changes before it goes to David.

Document is found [here](#).

Paul Amalos | Director | Compliance

Phone: +61 2 6207 0100 | paul.amalos@act.gov.au

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Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.

From: "Black, Simone" <Simone.Black@act.gov.au>
Sent: 23/02/2023 12:28 PM
To: "Amalos, Paul" <Paul.Amalos@act.gov.au>; "Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>
Cc: "Amos, Louise" <Louise.Amos@act.gov.au>
Subject: Medical Centres letter

OFFICIAL

Hi Paul and Phang,

Can you please have a look through the letter Louise and I have come up with?

File path is [here](#) for changes. The document is Medical Centres letter v2.

Thanks

Simone Black | Assistant Director | Compliance

Phone: +61 2 6205 9011 | [Email: simone.black@act.gov.au](mailto:simone.black@act.gov.au)

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Cc ...

The Company Secretary

Payroll tax is a State and Territory tax on wages that employers pay employees where wages are paid to a common law employee under the ACT *Payroll Tax Act (2011)* (the Act). Liability for payroll tax will also arise if it is established amounts are paid under a **relevant contract to a contractor under Section 32 of the ACT**. Liability for payroll tax may also arise if it is established amounts are paid under a **'employment agency contract'** to a service provider under Division 3.8 of the Act.

However, not all businesses have to pay payroll tax. Employers in the ACT must pay payroll tax if the total taxable wages, or the total taxable wages of the group of employers you belong to, exceed the payroll tax threshold (currently \$2,000,000 per year or \$166,666.66 per month).

Taxable wages include wages, salary, commission, bonuses, **allowances** and other benefits, superannuation contributions, director's fees, leave and other accrued benefits on retirement or termination, **eligible termination payments**. Payments to contractors providing services under a relevant contract are also liable for payroll tax unless one or more of the exemptions apply. The exemptions are designed to exclude payments to genuine independent contractors and these exemptions can be found under Section 32(2) of the Act.

A contract between a practitioner and a medical centre is a relevant contract pursuant to Section 32 of the Act if all the following apply:

- 1) the practitioner carries on a business or practice of providing medical related services to patients
- 2) in the course of conducting its business, the medical centre
 - a) provides members of the public with access to medical-related services
 - b) engages a practitioner to supply services to the medical centre by serving patients on its behalf
- 3) an exemption under s32(2) does not apply

If you are registered for ACT payroll tax please review your payroll tax lodgements to ensure you have included payments to your practitioners in the 'service' contracts category of tax forms lodged for the 2019-20 to the 2021-22 financial years and the months for 2022-23. If these payments have not been included, please make a voluntary disclosure by attaching all relevant documents though the form on our website: <http://www.revenue.act.gov.au/contact-us>.

If you are not registered for ACT payroll tax please provide a voluntary disclosure, attaching all relevant documents, though the form on our website: <http://www.revenue.act.gov.au/contact-us>. In addition, please register for ACT payroll tax by completing the following form on our website: <https://forms.act.gov.au/smartforms/servlet/SmartForm.html?formCode=1059>

If you have any further questions, please contact our Office on 02 6207 0028.

Kind regards

Return Taxes, Compliance

ACT Revenue Office

returntaxes@act.gov.au

23 February 2023

From: [REDACTED]
Sent: 23/02/2023 9:49 AM
To: "Amalos, Paul" <Paul.Amalos@act.gov.au>
Subject: RE: [EXTERNAL] Payroll Tax - Medical Centres

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Hi Paul,
 would you like to discuss our position on

this issue as my colleague [REDACTED] (Director of the PRT Audit division) is fully across the issues and I could arrange for her to call?

Regards



[REDACTED]
 Director
 Audit & Investigation - Royalty, Land Tax & Complex
 Strategy & Compliance

Queensland Revenue Office

W www.qld.gov.au/gro

From: Amalos, Paul <Paul.Amalos@act.gov.au>
Sent: Thursday, 23 February 2023 8:37 AM
To: [REDACTED]
Subject: [EXTERNAL] Payroll Tax - Medical Centres

CAUTION: This email originated from outside Queensland Treasury. Do not click links or open attachments unless you recognise the sender and know the content is safe.

OFFICIAL

Good morning [REDACTED]

Just wondering if you had some time to chat about medical centres and payroll tax. I can be reached on the below number.

Thanks

Paul Amalos | Director | Compliance
 Phone: +61 2 6207 0100 | paul.amalos@act.gov.au
 ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government
 PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

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From: "Amos, Louise" <Louise.Amos@act.gov.au>
Sent: 23/02/2023 4:19 PM
To: "Amalos, Paul" <Paul.Amalos@act.gov.au>; "Black, Simone" <Simone.Black@act.gov.au>;
"Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>
Subject: RE: Medica Centre - Draft Plan [DLM=For-Official-Use-Only]

OFFICIAL

Looks good Paul did we need to include 'resources'

Louise

From: Amalos, Paul <Paul.Amalos@act.gov.au>
Sent: Thursday, 23 February 2023 3:29 PM
To: Black, Simone <Simone.Black@act.gov.au>; Amos, Louise <Louise.Amos@act.gov.au>; Lim, Phang-Chun <Phang-Chun.Lim@act.gov.au>
Subject: Medica Centre - Draft Plan

OFFICIAL

Hi all

I have put together a draft plan concerning the Medical Centre project for your review and changes before it goes to David.

Document is found [here](#).

Paul Amalos | Director | Compliance

Phone: +61 2 6207 0100 | paul.amalos@act.gov.au

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From: [Ciaccia, Rino](#)
To: [Ellis, David](#)
Subject: [REDACTED].xlsx
Date: Friday, 24 February 2023 5:53:28 PM
Attachments: [REDACTED].xlsx

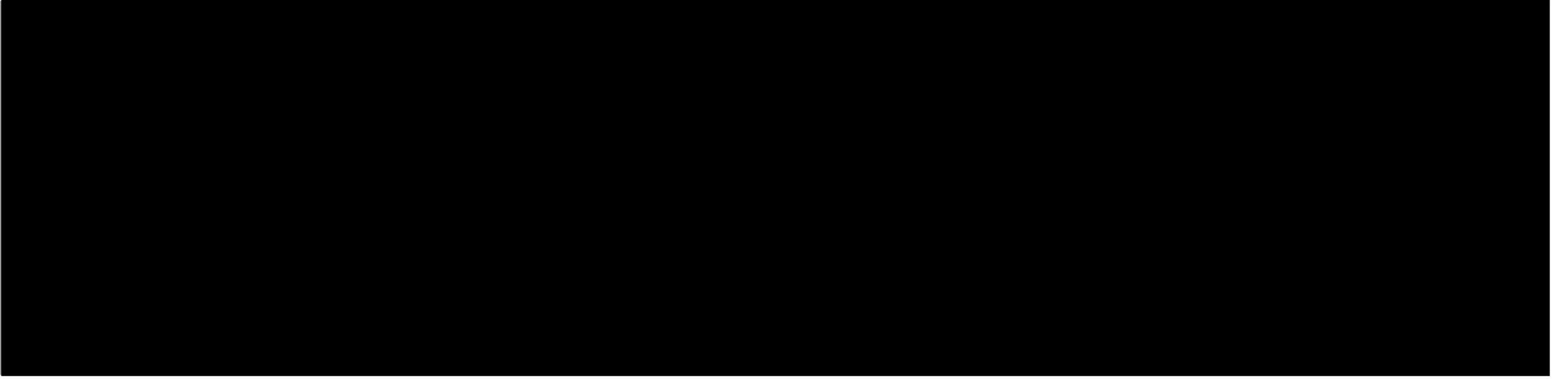
UNOFFICIAL

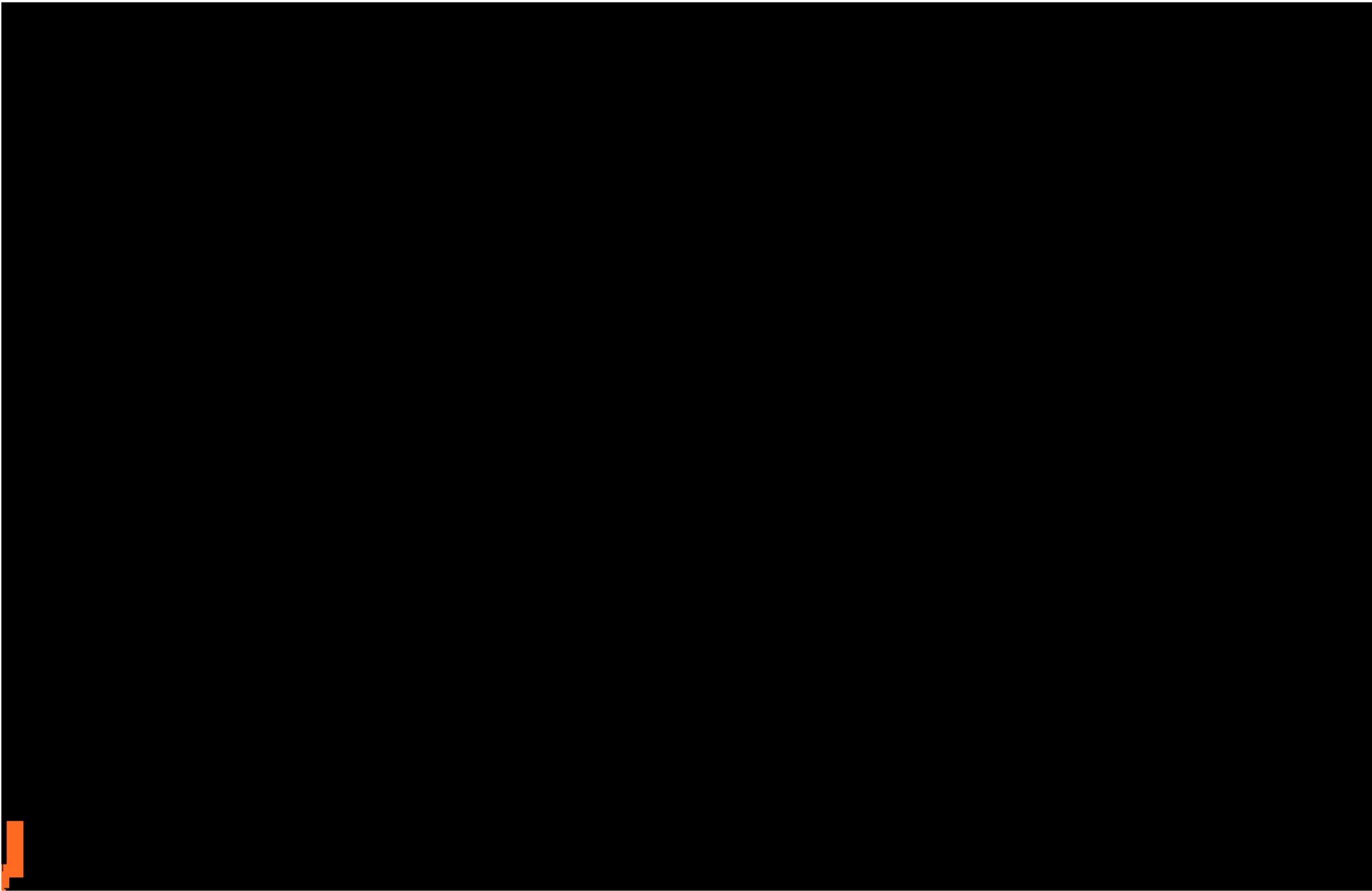
Hi David

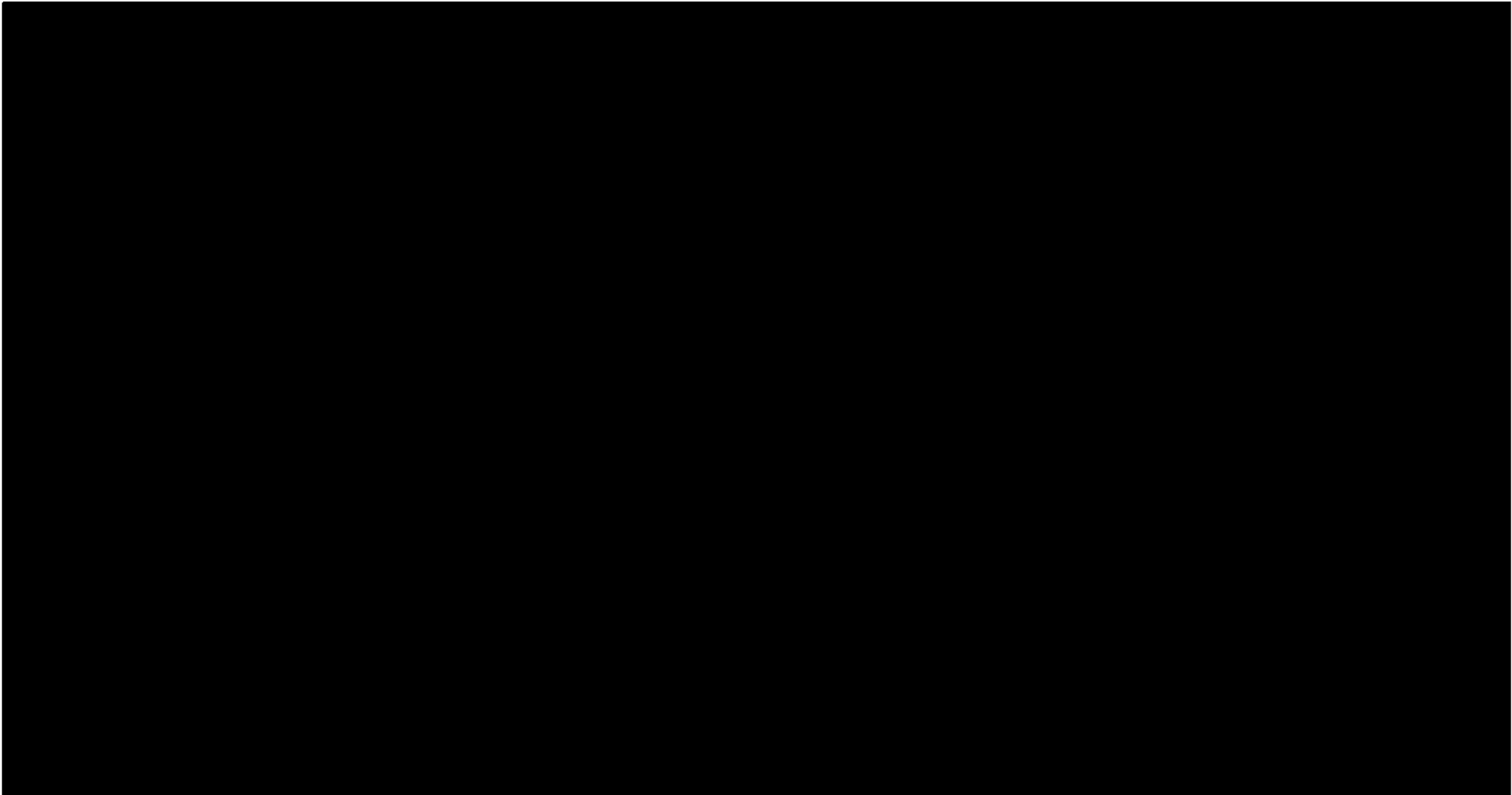
Data as requested











From: "Ellis, David"
Sent: 24/02/2023 2:26 PM
To: "Amalos, Paul" <Paul.Amalos@act.gov.au>
Subject: FW: ACT Revenue Office visit to [REDACTED]

OFFICIAL

fyi

From: [REDACTED]
Sent: Friday, 24 February 2023 1:32 PM
To: Ellis, David <David.Ellis@act.gov.au>
Subject: RE: ACT Revenue Office visit to [REDACTED]

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Good
 Afternoon
 David,
 Thank

you for your reply and clarification regarding the request.

We will be happy to provide the requested documents to you by Monday 13th March.

Kind Regards,

From: Ellis, David <David.Ellis@act.gov.au>

Sent: Friday, 24 February 2023 12:42 PM

To: [REDACTED]

Cc: Amalos, Paul <Paul.Amalos@act.gov.au>; [REDACTED]

Subject: RE: ACT Revenue Office visit to [REDACTED]

OFFICIAL

Good morning [REDACTED]

Thanks for getting back to me.

I'm happy for you to provide us with the documents by Monday 13 March 2023. They can be emailed directly to me at david.ellis@act.gov.au. Please let me know ahead of then if there are any issues in providing the documents or in meeting this timeframe. If there is a standard agreement the [REDACTED] I'm happy to receive this rather than each individual agreement.

As I noted, at this stage we are gathering information and have not commenced an audit – we will inform you if this changes. We may still need to come and ask some questions of you/[REDACTED] following receipt of the documents.

Kind regards

David

David Ellis | Senior Director – Compliance

david.ellis@act.gov.au

02 6205 4811

ACT Revenue Office | Chief Minister, Treasury & Economic Development Directorate

From: [REDACTED]

Sent: Friday, 24 February 2023 10:25 AM

To: Ellis, David <David.Ellis@act.gov.au>

Subject: RE: ACT Revenue Office visit to [REDACTED]

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Good Morning David, Thank

you for your email below.

We acknowledge receipt of your request for documentation.

We have requested assistance from our [REDACTED]

[REDACTED] have requested an extension of two weeks in order to prepare the information.

Regards,

[REDACTED]

[REDACTED]

From: Ellis, David <David.Ellis@act.gov.au>

Sent: Thursday, February 23, 2023 1:02 PM

To: [REDACTED]

Subject: ACT Revenue Office visit to [REDACTED]

OFFICIAL

Hi [REDACTED]

As discussed over the phone, the ACT Revenue Office intends to visit the [REDACTED] for the purpose of asking questions and obtaining documents in relation to the administration of the *Payroll Tax Act 2011*. We are hoping to attend next week, preferably on Monday 27 February 2023.

Our powers to attend premises, ask questions and obtain copies of documents are contained in Division 9.2 of the *Taxation Administration Act 1999* which is attached for your reference. An online version can be found at: www.legislation.act.gov.au

At this stage, the ACT Revenue Office is not conducting an audit of the [REDACTED]. However, an audit may be conducted in the future – we will inform you if this is the case.

Without limiting the scope of the questions to be asked/documents to be obtained, we intend to ask for the following:

1. Approximately how many [REDACTED] work at the [REDACTED] at any one time?
2. Does the [REDACTED] use any [REDACTED] or casual [REDACTED]?
3. What are the contractual arrangements between the [REDACTED]? Is there a standard agreement? We would like copies of the agreements.
4. How are the [REDACTED] paid for services performed at the [REDACTED]? Please outline the flow of funds between patients/Medicare/the [REDACTED], including which bank accounts are used.
5. What were the amounts of payments to [REDACTED] for the most recent financial year (2021-22)?
6. What was the level of wages (including superannuation and fringe benefits) paid to non-medical staff at the [REDACTED] in 2021-22?

Kind regards

David

David Ellis | Senior Director – Compliance

david.ellis@act.gov.au

02 6205 4811

ACT Revenue Office | Chief Minister, Treasury & Economic Development Directorate

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From: "Amalos, Paul" <Paul.Amalos@act.gov.au>
Sent: 24/02/2023 12:08 PM
To: "Ellis, David" <David.Ellis@act.gov.au>; "Amos, Louise" <Louise.Amos@act.gov.au>; "Black, Simone" <Simone.Black@act.gov.au>; "Ojala, Kimberley" <Kimberley.Ojala@act.gov.au>; "Riesen, Jessica" <Jessica.Riesen@act.gov.au>; "Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>
Subject: Medical Centre - Draft Plan

OFFICIAL

Hi all

As mentioned in our meeting today, I have put together a draft plan concerning the Medical Centre project found [here](#).

Cheers

Paul Amalos | Director | Compliance

Phone: +61 2 6207 0100 | paul.amalos@act.gov.au

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From: "Ellis, David"
Sent: 27/02/2023 12:03 PM
To: [REDACTED]
Cc: "Amalos, Paul" <Paul.Amalos@act.gov.au>
Subject: ACT Revenue Office - request for information: [REDACTED]
Attachments: Div 9.2 Powers of Investigation.pdf

OFFICIAL

Hi [REDACTED]

As discussed over the phone, the ACT Revenue Office intends to visit [REDACTED] for the purpose of asking questions and obtaining documents in relation to the administration of the *Payroll Tax Act 2011*. We are hoping to attend next week, preferably on Monday 6 February in the afternoon. Please let me know if this time suits.

Our powers to attend premises, ask questions and obtain copies of documents are contained in Division 9.2 of the *Taxation Administration Act 1999* which is attached for your reference. An online version can be found at: www.legislation.act.gov.au

At this stage, the ACT Revenue Office is gathering information only and is not conducting an audit of [REDACTED]. However, an audit may be conducted in the future – we will inform you if this is the case.

Without limiting the scope of the questions to be asked/documents to be obtained, we intend to ask for the following:

1. Approximately how many [REDACTED] administration staff work at the [REDACTED] [REDACTED] at any one time?
2. Does [REDACTED] use any [REDACTED] or casual [REDACTED]?
3. What are the contractual arrangements between the [REDACTED]? Is there a standard agreement? We would like copies of the agreements (or a copy of the standard one).
4. How are the [REDACTED] paid for services performed at the [REDACTED]? Please outline the flow of funds between patients/Private health insurance/the [REDACTED], including which bank accounts are used.
5. What were the amounts of payments to [REDACTED] for the most recent financial year (2021-22)?
6. What was the amount of wages (including superannuation and fringe benefits) paid to other staff at the [REDACTED] in 2021-22?
7. What amount of payments was made to contractors in 2021-22?

Kind regards

David

David Ellis | Senior Director – Compliance

david.ellis@act.gov.au

02 6205 4811

ACT Revenue Office | Chief Minister, Treasury & Economic Development Directorate

Taxation Administration Act 1999

Division 9.2 Powers of investigation

82 Power to require information, instruments or records or attendance for examination

- (1) The commissioner may, for a purpose related to the administration or enforcement of a tax law, by written notice given to a person, require the person—
- (a) to provide to the commissioner (either orally or in writing) information that is described in the notice; or
 - (b) to attend and give evidence before the commissioner or an authorised officer; or
 - (c) to produce to the commissioner a record or other document described in the notice that is in the person’s custody or control.
- (2) If a notice to a person under subsection (1) is made to determine that person’s tax liability, the notice must state that the requirement is made for that purpose, but the commissioner is not otherwise required to identify a person in relation to whom any information, evidence, record or other document is required under this section.
- (3) The commissioner—
- (a) may specify whether information or evidence to be provided or given under this section must be given orally or in writing; and
 - (b) may require any information or evidence given in writing to be in the form of, or verified by, a statutory declaration; and
 - (c) may require any information or evidence given orally to be given on oath or affirmation.
- Note 1* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.
- Note 2* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).
- (4) A person must not, without reasonable excuse, fail—
- (a) to comply with the requirements of a notice under this section within the period specified in the notice or any further period allowed by the commissioner; or
 - (b) to comply with any other requirement of the commissioner about the giving of evidence or how information or evidence is to be provided or given under this section.
- Maximum penalty: 50 penalty units.
- (5) A person required to attend before an authorised officer to give oral evidence must be paid expenses in accordance with the scale of allowances determined under section 139.
- (6) Subsection (5) does not apply to a person, or a representative of a person, giving evidence in relation to the person’s own tax liability.

83 Powers of entry and inspection

(1) An authorised officer may, for a purpose related to the administration or enforcement of a tax law, enter and inspect any premises at any reasonable time and do any of the following:

- (a) remain on the premises;
- (b) examine all documents and seize and remove, or take copies of or extracts from, any document on behalf of the commissioner;
- (c) inspect any gaming machines and seize any gaming machine that the authorised officer believes on reasonable grounds to be connected with an offence against a tax law;
- (d) require any person on the premises to answer questions or otherwise give information, including information about the identity of the person or another person;
- (e) require any person on the premises to give access to any document in the person's custody or control, and to—
 - (i) produce or display the document; or
 - (ii) provide a copy of the document or a version of it in some form other than that in which it is normally kept;
 - in any printed, electronic or other form that it is reasonably practicable to provide;
- (f) require any person on the premises to produce any gaming machine in the person's custody or control;
- (g) require the owner or occupier of the premises to provide the authorised officer with the assistance and facilities that is or are reasonably necessary to enable the authorised officer to exercise powers under this part.

(2) An authorised officer who enters premises under subsection (1) and is requested by the occupier to identify himself or herself is not authorised to remain on the premises unless the authorised officer produces his or her identity card to the occupier.

(3) The powers of entry and inspection under this section must not be exercised in relation to premises, or a part of premises, used for residential purposes except with the consent of the owner or occupier of the premises or part.

(4) In this section:

identity card means—

- (a) an identity card issued under section 80 (1); or
- (b) an identity card approved under section 80 (2), together with a notice issued under section 79 (3) (b).

occupier, in relation to premises, includes a person apparently in charge of or responsible for the premises.

84 Search warrant

(1) If a magistrate is satisfied, on the application of the commissioner supported by an affidavit or other sworn evidence, that there is a reasonable ground for suspecting that a document relevant to the assessment or payment of tax may be found in certain

premises, the magistrate may issue a warrant authorising an authorised officer together with any assistants named or described in the warrant—

- (a) to enter those premises, using the force that is necessary for the purpose; and
- (b) to search the premises and to break open and search anything in the premises where a document or gaming machine may be stored or concealed; and
- (c) to seize and remove, on behalf of the commissioner—
 - (i) any document that appears to be relevant to the assessment or payment of tax; or
 - (ii) any gaming machine that the authorised officer believes on reasonable grounds to be connected with an offence against a tax law.
- (2) The powers given by this section are additional to, and do not limit, any other powers given under a law.

85 Use and inspection of documents and records produced or seized

- (1) This section applies to a document that has been produced to the commissioner or seized and removed by an authorised officer.
- (2) The document may be kept for as long as is reasonably necessary to enable it to be inspected, copies of, or extracts or notes from it to be made, and for a decision to be made about whether subsection (3) applies.
- (3) If the document is liable to tax, it may be kept until the tax is paid.
- (4) If the document is required by the commissioner as evidence for the purposes of a legal proceeding, it may be kept until the proceeding is finally decided.
- (5) The commissioner must permit a person who would be entitled to inspect the document if it were not in the possession of the commissioner to inspect the document at any reasonable time.
- (6) This section does not prejudice a lien a person has on the document.

86 Use of goods produced or seized

- (1) This section applies to any thing, other than a document, that has been produced to the commissioner or seized and removed by an authorised officer.
- (2) The thing may be kept for as long as is reasonably necessary to enable it to be inspected and for a decision to be made about whether subsection (3) applies.
- (3) If the thing is liable to tax, it may be kept until the tax is paid.
- (4) If the thing is required by the commissioner as evidence for the purposes of a legal proceeding, it may be kept until the proceeding is finally decided.
- (5) If the owner of the thing is convicted as a result of the legal proceeding, the court may direct that the thing be forfeited to the Territory, and in that case it may be disposed of as the Minister directs.
- (6) If the thing is no longer required by the commissioner, but the commissioner is unable to return it to the owner within 12 months despite reasonable efforts to do so (for example, because the owner has left the ACT), the commissioner may direct that

the thing be disposed of by auction and the proceeds held for the owner instead of the thing.

(7) This section does not prejudice a lien a person has on the thing.

87 Self-incrimination

(1) A person is not excused from answering a question, providing information or producing a document, when required to do so under section 71 or section 82, on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(2) If the person objects to answering the question, providing the information or producing the document on that ground, the answer, information or document is not admissible against the person in any criminal proceeding other than—

(a) a proceeding for an offence in relation to false or misleading statements, information or records; or

(b) a proceeding for an offence in the nature of perjury.

88 Failing to comply with requirement of inspector

(1) A person must not, without reasonable excuse, fail to comply with a requirement of an authorised officer under this division.

Maximum penalty: 50 penalty units.

(2) A person does not commit an offence against this section arising from the entry of an authorised officer onto premises unless it is established that, at the material time, the authorised officer had—

(a) identified himself or herself as an authorised officer; and

(b) warned the person that a refusal or failure to comply with the requirement constituted an offence.

90 Access to public records without fee

The commissioner may inspect and take copies of any public record kept under an Act or other territory law without payment of any fee that would otherwise be payable.

From: "Amalos, Paul" <Paul.Amalos@act.gov.au>
Sent: 27/02/2023 1:37 PM
To: "Ellis, David" <David.Ellis@act.gov.au>; "Amos, Louise" <Louise.Amos@act.gov.au>; "Black, Simone" <Simone.Black@act.gov.au>; "Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>; "Ojala, Kimberley" <Kimberley.Ojala@act.gov.au>; "Riesen, Jessica" <Jessica.Riesen@act.gov.au>
Subject: FW: [EXTERNAL] david dahm - Doctor payroll tax presentation (for 2023 viewing....)
Attachments: image001.png

OFFICIAL

Hi all

See below link to a video presentation that is very relevant and of interest to listen to.

Paul Amalos | Director | Compliance
 Phone: +61 2 6207 0100 | paul.amalos@act.gov.au
 ACT Revenue Office | Chief Minister, Treasury and Economic Development Directorate | ACT Government
 PO Box 293 Civic Square ACT 2608 | www.revenue.act.gov.au

Respect, Integrity, Collaboration, Innovation - Better, Faster, Smarter

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From: [REDACTED]
Sent: Monday, 27 February 2023 9:40 AM
To: Amalos, Paul <Paul.Amalos@act.gov.au>
Subject: FW: [EXTERNAL] david dahm - Doctor payroll tax presentation (for 2023 viewing....)

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SENSITIVE

Morning Paul – you may also find the video at this link informative. If you ignore the sales pitch, you get a pretty good idea of what jurisdictions have been looking for and how medical practices ought to be set up to avoid the relevant contractor provisions.

<https://vimeo.com/767864752>



[REDACTED]
 Manager
 Audit and Investigations (Payroll Tax, Duties and Grants)
 Queensland Revenue Office

[REDACTED]
 W www.qld.gov.au/qro

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From: "Ellis, David" <David.Ellis@act.gov.au>
Sent: 28/02/2023 3:10 PM
To: "Amalos, Paul" <Paul.Amalos@act.gov.au>
Subject: AMA webinar

OFFICIAL

This one

[Register now to attend payroll tax webinar | Australian Medical Association \(ama.com.au\)](#)

David Ellis | Senior Director – Compliance

david.ellis@act.gov.au

02 6205 4811

ACT Revenue Office | Chief Minister, Treasury & Economic Development Directorate

From: "Ellis, David" <David.Ellis@act.gov.au>
Sent: 28/02/2023 3:41 PM
To: "Amalos, Paul" <Paul.Amalos@act.gov.au>; "Lim, Phang-Chun" <Phang-Chun.Lim@act.gov.au>; "Black, Simone" <Simone.Black@act.gov.au>; "Ellis, David" <David.Ellis@act.gov.au>; "Amos, Louise" <Louise.Amos@act.gov.au>
Subject: Medical Payroll and Income Tax Checklist

OFFICIAL

Fyi at this stage

https://www.canva.com/design/DAFN61x-ouY/4_UJU_1D8_OYCP-zwuSjg/view?utm_content=DAFN61x-ouY&utm_campaign=designshare&utm_medium=link&utm_source=publishsharelink

Medical etc centres

From: Salisbury, Kim <Kim.Salisbury@act.gov.au>

Sent: Thursday, February 16, 2023 5:20:50 PM

To: Khan, FaheemK <FaheemK.Khan@act.gov.au>

Cc: Hocking, Stuart <Stuart.Hocking@act.gov.au>; Miners, Stephen <Stephen.Miners@act.gov.au>; Treasury DLO <TreasuryDLO@act.gov.au>; Ford, Blake <Blake.Ford@act.gov.au>

Subject: Queensland payroll tax amnesty for medical centres

OFFICIAL

Faheem, not sure how familiar you are with this issue but for your information:

- The Queensland government has provided a 2 year amnesty (to 2025) for medical centres that have not been complying with payroll tax laws.
- Payments from a medical centre to a doctor are liable for payroll tax. It doesn't matter how the payments find their way to the doctor, i.e. the patient can pay the doctor directly; or the medical centre can collect the consult and Medicare fee, take a percentage, and pay the rest to the doctor – these payments are all subject to payroll tax.
- Recent cases, Optical Superstores in Victoria (2020) and Thomas and Naaz in NSW (2022) confirmed this position. Queensland SRO issued a ruling in December 2022 stating it intended to enforce payroll tax referencing these cases and issued compliance assessments.
- Doctors' associations threatened the shutdown of medical centres across Queensland and convinced the Queensland government to provide the amnesty.
- Other jurisdictions have not followed Queensland (as there has been no change to the law and no reason to provide an amnesty).
- The Media has enquired whether the ACT would provide a similar amnesty to that of Queensland.
- Providing amnesties for a certain class of business is highly inequitable. There will be medical centres currently complying and paying payroll tax. Other similar types of businesses (like ██████████ run on a similar model) will not be afforded the amnesty and will have to pay tax and penalties).
- Will the ACT Revenue Office be targeting medical centres? The tax compliance of medical centres is one of a number of considerations that ACTRO has regard to in determining the priorities for its compliance program. Compliance resources are directed to where there are the largest risks to revenue from taxpayer non-compliance.

Kim Salisbury | Commissioner
Ph

GPs, dentists, optometrists

QLD SRO ruling: <https://www.treasury.qld.gov.au/resource/ptaq000-6/>

Victoria SRO summary on optical superstores: <https://www.sro.vic.gov.au/legal-cases/optical-superstore-pty-ltd-v-csr-2020-hcasl-16>

NSW SRO summary on Thomas and Naaz <https://www.revenue.nsw.gov.au/help-centre/resources-library/case-summary/2022-nswcatap-220>

Letter to all on list over 3 months

How Law interpreted

Your opportunity to make a voluntary disclosure for 2019-20 to 2020-21 and 2021-22

1 month from date of letter

5% penalty tax with market interest

Make sure no-one is outing their name on one they are associated with

To do out of meeting

Investigations notices from Qld?

When in 2019 was Victorian decision?

Differences in acts on wages btw Victoria, NSW and ACT? If any? Definition of paid or payable.

Map out 1 pager of plan.

1 page project plan

No changes to the law

Letter draft

Payroll tax is a State and Territory tax on wages that employers pay employees where wages are paid to a common law employee (part section of the PT Act). Liability for payroll tax will also arise if it is established amounts are paid under a relevant contract to a contractor (ACT Payroll Tax Act (2011) Section 32). Liability for payroll tax may also arise if it is established amounts are paid under a 'employment agency contract' to a service provider (part of the ACT).

However, not all businesses have to pay payroll tax. Employees in the ACT must pay payroll tax if the total taxable wages, or the total taxable wages of the group of employers you belong to, exceed the payroll tax threshold (currently \$2,000,000 per year or \$166,666.66 per month).

Taxable wages include wages, salary, commission, bonuses, allowances and other benefits, superannuation contributions, directors fees, leave and other accrued benefits on retirement or termination, eligible termination payments. Payments to contractors providing services under a relevant contract are also liable for payroll tax unless one or more of the exemptions (ACT Payroll Tax Act (2011) section 32(2)(a)) apply. The exemptions are designed to exclude payments to genuine independent contractors.

A contract between an entity that conducts a medical centre and a practitioner is a relevant contract pursuant to s32 if all the following apply:

- a. the practitioner carries on a business or practice of providing medical related services to patients
- b. in the course of conducting its business, the medical centre
 - i. provides members of the public with access to medical-related services
 - ii. engages a practitioner to supply services to the medical centre by serving patients on its behalf
- c. an exemption under s does not apply

If you are registered for ACT payroll tax please review your payroll tax lodgements to ensure you have included payments to your practitioners in the 'service' contracts category of tax forms lodged for the 2019-20 to the 2021-22 financial years and the months for 2022-23. If these payments have not been include please make a voluntary disclosure, attaching all relevant documents, though the form on our [website](#).

If you are not registered for ACT payroll tax please provide a voluntary disclosure, attaching all relevant documents, though the [form](#) on our website. Also please register for ACT payroll tax by completing the [registration form](#) on our website