



ACT Revenue Office
Department of Treasury

Revenue Circular PTX002
Payroll Tax Act 1987
Expatriate Employees

Circular history

Circular number	Issued date	Dates of effect		Status
		From	To	
PTX002	30 June 2008	1 July 2008	30 June 2011	Superseded

Preamble

1. Whether wages of an employer are subject to the payment of payroll tax in the ACT will depend upon where the work is performed by an employee and where the payment is received by an employee.
2. Employers who have expatriate employees should be aware that wages, which include a wide variety of payments made to these employees, may be subject to payroll tax where payments are received in the ACT in relation to employees working overseas or payments are received overseas by employees working in the ACT.
3. The purpose of this circular is to clarify an employer's liability under section 2D of the *Payroll Tax Act 1987* (the Act) in respect of wages paid to expatriate employees.

Circular

Expatriate Employees Working Overseas

Assignment for less than six months

4. Wages received in the ACT by an expatriate employee who is working in another country, or countries, are taxable where the assignment in another country, or countries, is no more than six continuous months.
5. If only part of the wages earned by an expatriate employee working in another country or countries is received in the ACT, then such wages must be declared for payroll tax.

Assignment for greater than six months

6. Where services are performed by an employee on a continuous assignment in another country or countries for more than six months, any wages received in the ACT are not subject to payroll tax (i.e. the exemption from payroll tax on such wages applies for the whole assignment, including the first six months).
7. The six-month period does not have to be within the one financial year, but must be a continuous period. Where an employee, working in another country, returns to Australia, it will not be considered to be a break in continuity in the following circumstances:

- (a) the employee returns for a holiday; or
- (b) the employee returns to perform work exclusively related to the overseas assignment for a period of less than one month,

and, in either case, the employee immediately returns to that overseas country to perform further work on the assignment.

Services performed offshore

8. Any wages that relate to services performed offshore and beyond the limits of any Australian State or other Territory, *but not in another country*, are taxable if they are received in the ACT irrespective of the duration of the assignment. As such, the exemption that applies to wages received in the ACT for work performed in another country is not applicable.

Expatriate Employees Working within the ACT or Paid in the ACT

9. It is common practice for overseas parent companies to send employees to work for their ACT subsidiaries or branches on a permanent or temporary basis. Wages paid to such persons in the ACT are subject to payroll tax in the ACT in any calendar month where the employee works wholly or partly in the ACT. Wages paid in another State or other Territory are subject to payroll tax in the ACT in any calendar month where the employee works wholly in the ACT.

10. Wages paid outside Australia are subject to payroll tax in the ACT in any calendar month where the employee works mainly in the ACT.

11. Where the expatriate employee receives his or her wages in the ACT but works in two or more States or in the Northern Territory in a calendar month, such wages are taxable in the ACT.

12. Although the basis for determining whether payments made, or benefits provided, to expatriates are subject to payroll tax is essentially the same as applies to other wage payments, the following clarification is provided.

Wages paid in a foreign currency

13. When calculating the value of the payment, the ACT Revenue Office will accept an exchange rate conversion, based upon the Reserve Bank of Australia's daily published rate for the day of payment. If this creates difficulties, the employer may use, as an alternative, the yearly average rate for the financial year as published by the Australian Taxation Office. The previous year's figure may be applied for the purpose of making monthly returns, provided that the current year's rate is used to make an appropriate adjustment in the Annual Adjustment return.

Bonuses paid overseas to expatriates relating to employer/group performance

14. Subject to the following paragraph, the value of bonuses paid overseas as a result of an employer's, or employer group's performance, are subject to payroll tax and should be declared in the ACT to the extent that they relate to a period in which the expatriate worked in the ACT, regardless of when the bonus is paid. If the bonus is paid for a period in which the expatriate worked wholly in the ACT, the whole of the bonus paid is subject to payroll tax.

15. A bonus paid overseas for a financial year in which the expatriate worked at least partly in the ACT will be subject to ACT payroll tax only if the expatriate worked in Australia for more than one half of that financial year. The amount of bonus to be declared is to be calculated on a *pro rata* basis using the number of calendar months in which the expatriate worked mainly in the ACT.

16. For example, where an annual bonus of \$12 000 is paid overseas to an expatriate employee who worked in Australia for a total of seven months, of which three months were worked mainly in the ACT, three-twelfths of \$12 000 (\$3 000) is subject to ACT payroll tax. The bonus would not be taxable in the ACT if the expatriate employee worked in Australia for less than six months.

Fringe Benefits

17. Benefits provided to expatriate employees that fall within the provisions of the *Fringe Benefits Tax Assessment Act 1986* (Cth) are subject to payroll tax based on the taxable value of the fringe benefit grossed-up using the Type 2 factor only.

Employer Contribution to Superannuation Funds

18. The definition of wages includes employer contributions to superannuation funds. The superannuation contributions of expatriate employees are taxable if paid or payable for or in relation to a person whose wages, or other remuneration, are subject to payroll tax.

SIGNED

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