

REVENUE CIRCULAR PTA012
Exemption for Wages Paid for Employees on Maternity, Adoption or Primary Carer Leave <i>Payroll Tax Act 2011</i>
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Preamble

The *Payroll Tax Act 2011* (the Act), which commenced on 1 July 2011, rewrites the *Payroll Tax Act 1987* (the 1987 Act) and harmonises the payroll tax legislation in the Australian jurisdictions.

1. Sections 53 and 53A of the Act exempts wages paid for employees on maternity, adoption or primary carer leave.
2. This circular provides information on the exemption.

Circular

Exempt Wages

3. Wages that may be exempt are wages paid or payable to ACT employees on maternity, adoption or primary carer leave.
4. This exemption does not apply to any part of wages paid or payable in relation to maternity, adoption or primary carer leave that consists of fringe benefits (section 53(4) and schedule 2 part 2.6 section 2.18(4) of the Act).

Who may apply

5. Any ACT employer who provides paid maternity leave, adoption leave or primary carer leave in relation to the birth or adoption of a child may claim an exemption from payroll tax for wages paid or payable for a maximum of 14 weeks leave for any one pregnancy, birth or adoption.
6. The exemption does not apply to leave of any other kind, including sick leave, annual leave or long service leave.

Maximum period of exemption to be equivalent to 14 weeks leave

7. The exemption applies equally to full-time and part-time employees for wages paid by the employer while they utilise maternity, adoption or primary carer leave.

8. The exemption applies for a maximum period equivalent to 14 weeks leave as follows:
- (a) to wages at full pay where a full time employee takes the leave at less than full pay, e.g. 28 weeks leave being taken at half pay, or
 - (b) if a part-time employee takes leave on less than the employee's average rate of pay – to wages at the employee's average rate of pay over the six (6) weeks immediately before the leave is taken; or
 - (c) if a part-time employee takes the leave at his or her normal rate of pay — to wages at the rate of pay of the employee immediately before the leave was taken.

Time limit on when leave may be taken

9. To qualify for the payroll tax exemption, the leave must be taken before the relevant day, being:
- (a) for a birth — the day six (6) months after the day of the birth;
 - (b) for a pregnancy that ends other than by birth — the day six (6) months after the day the pregnancy ends; and
 - (c) for an adoption — the day six (6) months after the day the child is placed, for the purpose of adoption, in the care of the adoptive parent.

Employer must keep records

10. The following documentation is required by the employer for the grant of the leave:
- (a) for maternity leave — a birth certificate for the child, or medical certificate stating that the employee was pregnant and the date of the end of the pregnancy;
 - (b) for adoption leave — a statutory declaration stating the child has been placed, for the purpose of adoption, in the care of the adoptive parent, and the date of the placement;
 - (c) for primary carer leave in relation to a newly-born child — a birth certificate for the child and a statutory declaration that the employee is the primary carer for the child; and
 - (d) for primary carer leave in relation to a child placed for the purpose of adoption — a statutory declaration stating that the child has been placed, for the purpose of adoption, in the care of the adoptive parent, the date of the placement, and that the employee is the primary carer.
11. Other documentation may be prescribed under the regulations, must be readily accessible, and must be retained for at least five (5) years.

SIGNED

David Read
Commissioner for ACT Revenue
30 June 2011