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Public Ruling

**Payroll Tax Act—Harmonised:
EXEMPTION FOR PARENTAL AND ADOPTION
LEAVE PAY**

A Public Ruling, when issued, is the published view of the Commissioner on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue/s it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant, subsidy or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. The *Pay-roll Tax (Harmonisation) Amendment Act 2008* amended the *Payroll Tax Act 1971* (the Payroll Tax Act) with effect from 1 July 2008 to harmonise certain aspects of Queensland's payroll tax system with the systems of other jurisdictions.
2. Section 14A of the Payroll Tax Act exempts from payroll tax, wages paid or payable to employees on parental leave or adoption leave. The exemption:
 - (a) applies to wages paid or payable to employees taking parental leave or adoption leave
 - (b) applies to all wages other than fringe benefits
 - (c) is limited to a maximum of 14 weeks' pay
 - (d) applies irrespective of whether the leave is taken before or after the birth or adoption and
 - (e) must be supported by keeping relevant records.
3. The purpose of this Public Ruling is to explain the application of the exemption for parental and adoption leave pay and clarify the elements of the exemption.

Ruling and explanation

Definition of 'parental leave'

4. Section 14A(7) of the Payroll Tax Act defines 'parental leave' as maternity or paternity leave.

5. 'Maternity leave' is defined in the Payroll Tax Act as leave given to a female employee in connection with her pregnancy or the birth of her child, other than annual leave, recreation leave, sick leave or similar leave.¹
6. 'Paternity leave' is defined in the Payroll Tax Act as leave given to a male employee in connection with the pregnancy of a female carrying his unborn child or the birth of his child, other than annual leave, recreation leave, sick or similar leave.²
7. Parental leave may be taken during or after the pregnancy.³

Example 1

In relation to the birth of her child, Mary took long service leave of 10 weeks, annual leave of four weeks and unpaid leave of 38 weeks. The wages paid for all the leave taken by Mary are taxable.

Example 2

In relation to the birth of his child, John took long service leave of 10 weeks, annual leave of four weeks, paid paternity leave of 12 weeks and unpaid leave of 26 weeks. Only the wages paid for the 12 weeks' paternity leave are exempt. Wages paid for the long service leave and annual leave are taxable.

Definition of 'adoption leave'

8. 'Adoption leave' refers to leave given to an employee in connection with the adoption of a child by the employee, other than annual leave, recreation leave, sick leave or similar leave.⁴
9. The employee may take the adoption leave before or after the adoption of a child.⁵

Example 3

John has taken paid adoption leave in three distinct parts: one week to familiarise himself with the adoption process, two weeks to go interstate/overseas to meet the child and a further three weeks after the child arrived in Brisbane. All six weeks are considered to be adoption leave. Consequently, wages paid for the six weeks leave are exempt.

Types of wages that are exempt

10. Exempt wages include wages, salaries, employer superannuation contributions, allowances, bonuses and commissions. Fringe benefits provided to an employee on parental or adoption leave are not exempt.⁶

¹ Section 14A(7) of the Payroll Tax Act

² Section 14A(7) of the Payroll Tax Act

³ Section 14A(2) of the Payroll Tax Act

⁴ Section 14A(7) of the Payroll Tax Act

⁵ Section 14A(2) of the Payroll Tax Act

⁶ Section 14A(6) of the Payroll Tax Act

Maximum entitlement

11. For any one pregnancy or adoption, the exemption is limited to wages for a maximum of 14 weeks' full time leave for a full time employee or the equivalent amount if taken over a longer period e.g. 28 weeks' leave being paid at half pay. In the case of a part-time employee, the exemption is limited to a maximum of 14 weeks' leave paid at the applicable part-time rates of pay.⁷

Example 4

Cathy is a part-time employee. She works 3 days a week at a rate (including employer superannuation contributions) of \$100 per day. The maximum amount of exempt wages that can be paid to Cathy is \$4,200 (\$100 x 3 days x 14 weeks).

Example 5

ABC Pty Ltd has a policy of providing 12 weeks' paid maternity leave. Stella, a full time employee elects to take the maternity leave over 24 weeks at half pay. Wages relating to this period are fully exempt.

Record keeping

12. To claim the exemption in relation to maternity leave, an employer must obtain a medical certificate or statutory declaration from the employee. These documents must specify that the employee was pregnant or that the employee has given birth and the date of birth.⁸
13. To claim the exemption in relation to paternity leave, an employer must obtain a statutory declaration by the employee stating that a female is or was pregnant with his unborn child, or that the child has been born and the date of birth.⁹
14. To claim the adoption leave exemption, an employer must obtain a statutory declaration from the employee stating that a child has been placed in the employee's custody pending the making of an adoption order or that an adoption order has been made or recognised in the employee's favour.¹⁰
15. The records substantiating a claim for the parental and adoption leave exemption must be kept for five years.¹¹

Date of effect

16. This Public Ruling takes effect from the date of issue.

David Smith
Commissioner of State Revenue
Date of Issue 3 July 2009

⁷ Sections 14A(3) and (4) of the Payroll Tax Act

⁸ Section 14A(5)(a) of the Payroll Tax Act

⁹ Section 14A(5)(b) of the Payroll Tax Act

¹⁰ Section 14A(5)(c) of the Payroll Tax Act

¹¹ Section 118 of the *Taxation Administration Act 2001*

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA012.2	3 July 2009	3 July 2009	10 December 2012
PTA012.1	24 February 2009	1 July 2008	2 July 2009