

# Changes to the Maternity and Adoption Leave Exemption Payroll Tax Bulletin

This Bulletin explains the amendments to section 53 of the *Payroll Tax Act 2007* which come into effect from 1 July 2012 and also how the maternity and adoption leave exemption interacts with the Commonwealth Government's Paid Parental Leave scheme.

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## Background

Section 53 of the *Payroll Tax Act 2007* (the Act) provides an exemption for wages paid or payable in respect of maternity or adoption leave. Revenue Ruling PTA012 provides further detail on the operation of this exemption.

The *State Taxation Acts Further Amendment Act 2011* amended section 53 with effect from 1 July 2012. The amendment clarifies that:

1. the 14 week maximum entitlement is based on the wages that would normally have been paid or payable for the period of maternity or adoption leave; and
2. the exemption can be pro-rated for part-time employees who take leave for a period of more than 14 weeks at a reduced rate of pay.

On 1 January 2011, the Commonwealth Government commenced its national Paid Parental Leave (PPL) scheme. This scheme provides eligible working parents of children born or adopted on or after 1 January 2011 with 18 weeks of PPL at the National Minimum Wage rate. The Commonwealth Government funded PPL payments are not subject to payroll tax because they do not constitute wages as defined under the Act. This is explained further in Revenue Ruling PTA037.

This Bulletin provides a number of examples to explain how the amendments to section 53 of the Act operate and also how the maternity/adoption leave exemption interacts with the Commonwealth PPL scheme.

## Examples

### Example 1 – interaction with the Commonwealth's PPL payments

Helen is a full-time employee who is paid \$1500 per week (including employer superannuation contributions).

She is eligible to receive the Commonwealth Government's PPL payment (currently \$589.40 per week for 18 weeks). Her employer has agreed to provide paid maternity leave but only to the extent of topping up Helen's pay so that she receives her full pay for 18 weeks. Accordingly, Helen's employer pays her \$910.60 for 18 weeks, which when combined with the Commonwealth Government's PPL payments of \$589.40 per week means that Helen will receive \$1500 per week for 18 weeks (a total of \$27,000).

The Commonwealth Government's PPL payments totalling \$10,609.20 (\$589.40 per week x 18 weeks) do not constitute wages and therefore are not liable for payroll tax purposes.

Helen's maximum exemption entitlement for employer funded maternity leave under section 53 of the Act is \$21,000 (i.e. Helen's normal salary of \$1500 per week x 14 weeks). In this example, the total of the employer funded maternity leave payments is \$16,390.80 (\$910.60 per week x 18 weeks). As this amount is less than Helen's maximum exemption entitlement under section 53 of the Act, it is exempt from payroll tax.

### Example 2 – payment of an additional wage amount (bonus)

Emily is a full-time employee who is paid \$1000 per week (including employer superannuation contributions). Her employer provides paid maternity leave for 12 weeks.

In relation to the birth of her child, Emily takes 12 weeks of employer funded maternity leave (i.e. \$1000 per week for 12 weeks) and 40 weeks of unpaid leave. Emily's employer also pays her a one-off bonus payment of \$2500. Therefore she receives a total of \$14,500.

Emily's maximum exemption entitlement for employer funded maternity leave under section 53 of the Act is



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\$14,000 (i.e. her normal salary of \$1000 x 14 weeks). Therefore \$14,000 is exempt from payroll tax and the additional \$500 is taxable.

### Example 3 – payment of an additional wage amount (superannuation)

Alice is a full-time employee who is paid \$1500 per week in wages and \$150 per week in employer superannuation contributions (\$1650 per week in total).

In relation to the birth of her child, Alice's employer provides paid maternity leave for 13 weeks (at \$1650 per week). As an additional benefit for its employees, Alice's employer also makes employer superannuation contributions at 10% (\$150 per week) for up to 39 weeks while an employee is on unpaid maternity leave. Therefore, Alice receives a total of \$27,300 (i.e. \$1650 x 13 weeks plus \$150 x 39 weeks).

Alice's maximum exemption entitlement for employer funded maternity leave under section 53 of the Act is \$23,100 (\$1650 x 14). Therefore, \$23,100 is exempt from payroll tax and the additional \$4200 is taxable.

### Example 4 – pro-rating the exemption for part-time employees

Pauline is a part-time employee. She works four days a week at a rate (including employer superannuation) of \$150 per day. Pauline's maximum exemption entitlement for employer funded maternity leave under section 53 of the Act is \$8400 (\$150 x 4 days x 14 weeks). Pauline elects to take her maternity leave at half her normal rate of pay and her employer pays her \$300 per week for 28 weeks, totalling \$8400. As this amount is equal to Pauline's maximum exemption entitlement (i.e. \$8400), it is exempt from payroll tax.

## Further Information

For further information on these changes, please contact the State Revenue Office:

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