

2023

**Legislative Assembly for the
Australian Capital Territory**

Payroll Tax Amendment Bill 2023

Explanatory Statement

Presented by

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Legislative Assembly for the Australian Capital Territory

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This explanatory statement relates to the Payroll Tax Amendment Bill 2023 as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the bill and to help inform debate on it. It does not form part of the bill and has not been endorsed by the Assembly. The Statement must be read in conjunction with the bill. It is not, and is not meant to be, a comprehensive description of the bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Purpose

The purpose of the Payroll Tax Amendment Bill 2023 is to amend the *Payroll Tax Act 2011* (the Act) to exempt wages paid to general practitioners (GPs) under a relevant contract from ACT payroll tax, backdated to 1 July 2011, which is the commencement date of the Act.

Part 4 of the Act currently specifies the following entities as exempt from ACT payroll tax: charitable organisations, employment agents, education and training providers, hospitals, employees of the Governor-General or the Australian Defence Force, employees on parental leave, emergency services volunteers, consular and diplomatic representatives of other countries.

Background

Revenue NSW and the State Revenue Office of Victoria have issued rulings on 11 August 2023, based on decisions in *Thomas and Naaz Pty Ltd v Chief Commissioner of State Revenue* [2021] NSWCATAD 259, and the *Commissioner of State Revenue (Vic) v The Optical Superstore Pty Ltd* [2019] VSCA 197.

The rulings stipulate contractual arrangements between GPs and medical centres may be relevant contracts for payroll tax purposes, and therefore attract a payroll tax liability.

Human rights

There are no human rights implications in relation to this bill.

Clause notes

Clause 1 – Name of Act

This clause provides for the name of the bill upon enactment.

Clause 2 – Commencement

This clause provides that the Act will commence on the day after its notification day.

Clause 3 – Legislation amended

This Act amends the *Payroll Tax Act 2011*.

Clause 4 – New division 4.3A

New division 4.3A inserts an exemption from payroll tax for wages paid or payable to general practitioners under contract for services.

Clause 5 – New section 102

This section inserts a transitional provision specifying that the exemption from payroll tax for general practitioners applies since the commencement of the Payroll Tax Act 2011 on 1 July 2011.