

Payroll tax: what does this mean for your medical practice?

Medical and healthcare practices are the bastion of community healthcare – providing a suite of healthcare services to the community under one roof. For decades, the Government and regulatory bodies have encouraged medical professionals to move from solo practice to collaborative models, where several practitioners work from the same location. But recent changes by Revenue NSW to the Payroll Tax will have significant implications for many medical and healthcare practices, that could threaten their financial viability.

Two recent cases, that of Optical Superstore in Victoria and Thomas and Naaz in NSW, have confirmed that the revenue authorities are taking this seriously.

What is payroll tax?

A typical practice, with several medical professionals working under one roof, supported by allied health, nursing and administrative staff operates as a service entity and provides the logical framework both from a healthcare professional and patient's perspective. Utilising this structure, the medical practice collects consultation income on behalf of the doctors and healthcare providers and distributes it once a service fee has been deducted.

Revenue NSW has recently announced that it is broadening the scope of payroll tax to include medical practices that operate as service entities.

This means that the distribution of fees to the doctors and other healthcare providers, for their work on behalf of the practice, would be classed as payment that is subject to payroll tax. It is therefore crucial that the operational structure of medical practices and the contracts under which all their doctors and other healthcare professionals work are addressed to ensure compliance.

What are the changes?

The changes relate to how doctors and other healthcare providers receive their income and the contracts that exist between them and the practice.

Under the Payroll Tax Act 2007 (NSW) payments made to 'relevant' contracts may be classed as wages.

A '*relevant*' contract is one under which either:

- a person supplies services to another, in relation to the performance of work; or
- a person has supplied services to another, in relation to the performance of work.

There are some exceptions to this, such as:

- where the contract for services is generally required by the principal for less than 180 days in a financial year; or
- where the contract is for the provision of services that are the same or similar to those provided by the principal, for no more than 90 days in a financial year.

How does this relate to you?

If you are the principal of a medical practice, with two or more practitioners, it is important to ascertain whether your doctors or other health professionals are working under 'relevant' contracts.

If you do have 'relevant' contracts in place, it means that the practice may have to pay an additional 5.45% tax¹ on the payments made to the practitioners. This fee represents a significant increase to the costs of the practice in providing operational services for its health professionals, placing a considerable burden on the financial viability of practice itself.

It is critical to note that that is being backdated and that the current payroll tax threshold for the 2022/2023 financial year is \$1.2 million¹.

Medical Practice (Northern Beaches)

"We have been operating a medical practice on the Northern Beaches for over ten years. We have five GPs and two nurses and provide services to roughly 3,000 patients a month. The service model made total sense for us, as it means the doctors have the necessary infrastructure and support around them, so they can focus on their real work – looking after patients.

It was our accountant that alerted us to the Payroll Tax changes and the possible implications. We were stunned as there's been so much emphasis on medical practitioners moving into shared practice models over recent years, and this negates all the business benefits of that. It was a very stressful time and knowing that the tax could be backdated too.

Luckily our accountant was able to advise us and help us make the necessary changes to our business structure and contracts to ensure that we could continue operating a viable practice in the future.

We are, however, still concerned about the retrospective action taken by Revenue NSW."

Medical Practice Manager, Mona Vale.

¹ NSW Government Revenue, Payroll Tax, viewed 15 December 2022, <https://www.revenue.nsw.gov.au/taxes-duties-levies-royalties/payroll-tax#:~:text=Rates%20and%20thresholds,million%20from%201%20July%202020.&text=The%20payroll%20tax%20rate%20from%201%20July%202022%20is%205.45%20per%20cent>.

Who's affected?

See if this is likely to affect you:

- Do you have two more or healthcare providers working in your practice?
- Do any of your healthcare providers work in your practice for more than 180 days per financial year?
- Have any of your healthcare providers ever worked in your practice for more than 180 days in a financial year?
- Do any of your healthcare providers provide the same or similar services to the principal for more than 90 days per financial year?
- Have any of your healthcare providers ever provided the same or similar services to the principal for more than 90 days in a financial year?
- Does your practice pay wages, superannuation, fringe benefits and payments under 'relevant' contracts which exceed \$1.2million per annum?
- Do the contracts in place refer to shifts, hours of work or rosters?
- Do your healthcare providers have to comply with practice protocols?
- Is the practice responsible for the patients' medical records?
- Does the healthcare provider's leave have to be approved by the practice?
- Do the contracts include restraint of trade provisions?

If you answered 'yes' to any of these questions, then you need to assess the contracts that are in place as it's likely that they could be 'relevant' and that your practice could be impacted by these changes.

What can we do?

In a nutshell, until now it has made sense for medical practitioners to join forces and operate as a service entity - from a financial perspective but also for healthcare providers and patients. The shared model gives health professionals the structure they require and ensures there is other professional support available, while patient care can be easily co-ordinated allowing them access to other practitioners if necessary.

Given this change in payroll tax though and Revenue NSW's commitment to it, it is critical that practices now address their operational structure and the contracts they have in place to ensure that they comply with the requirements and avoid unnecessarily costly expenses.

To discuss the issues raised in this paper and how they might affect your practice, please give us a call on 02 8973 2222.