

BelInTheKnow: Navigating the ever-changing complex world of Payroll tax

This article contains a recording of the BelInTheKnow in Partnership with Avant Law, Growth MD, WilliamBuck and Best Practice Software — Navigating the ever-changing complex world of Payroll tax sessions delivered by Best Practice Software on the 11 – 13 June 2024.

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Question	Answer
If a practice employs a new contractor, is it ok for the contractor to have a bank account open as a subaccount to the practice bank account for payments to be made directly into, or does this have implications for payroll tax?	<p>If you are employing a new contractor and intend to have control over this person, then you will be subject to payroll tax. If a practitioner engages the practice to supply facilities and services, then as a general rule, you should arrange for the payments to go directly to the practitioner.</p> <p>If the account is a 'subaccount' of the practice, then the practice will likely be seen to have control, which will be a potential risk.</p>
If the payment received by practice on behalf of contract doctors has been used to deduct their service fee, is that charge exempted from payroll tax?	<p>If those fees are paid to the practice, held on behalf of the doctors, and then distributed to them by the practice, this would likely be seen as 'wages' and controlled by the practice over the flow of funds.</p> <p>You should consider your terms, but in Queensland - if practitioners are paid directly by their patients and they are sole traders, the money will likely not be subject to payroll tax.</p>

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Question	Answer
<p>What's the best way to handle payment from insurance companies such as Work Cover / CTP?</p>	<p>I presume that's in relation to the flow of funds and the issues people are having with the flow into a central account.</p> <p>There has been some resistance from some insurers issuing payment under the doctor's account, but we are getting around most of those.</p> <p>The majority of practices that do direct banking work on a remittance basis. It's not all smooth sailing; it's the most challenging process of reconciliation.</p>
<p>Does the extension of exemption/amnesty apply to allied health and doctors in Queensland?</p>	<p>At this stage, it is only general practice, though if you follow the same principles as general practitioners, your risks will be reduced.</p>
<p>If we implement a surcharge and are later deemed not liable or our tax invoice isn't as high as the total surcharge collected, how do we manage the surplus and/or refund?</p>	<p>Implementing a surcharge, in most cases, means you would not be directly passing on the tax; you would be implementing a fee from the practice where you would collect an amount to cover your cost from the practitioners.</p> <p>Charging a levy or admin fee for additional services, which will be utilised to cover the cost of the payroll tax, can only be levied on the doctors, and you shouldn't be controlling the fees the independent doctors are charging their patients.</p> <p>If you don't have the payroll tax liability, you have additional money to help your practice; however, if you have charged the additional fee and held out that it is to cover your payroll tax liability, you may be creating an exposure if you did not repay the money.</p>
<p>What happens to allied health/specialists renting a room from the centre that pays a flat fee? Consultation payments go directly into their accounts, but the centre manages their appointments. Would that be considered a 'tenancy agreement'?</p>	<p>If you're managing appointments and providing some services, then it won't be a strict tenancy agreement. You should have a service agreement that clearly outlines what facilities and services are provided with the flat rate that would apply.</p>
<p>If the practice maintains computer security, clinical software and all I.T. for the protection of the records, and all independent practitioners have access to the clinical records, do the records belong to a practitioner?</p>	<p>When you're talking about ownership of patient records, it can get complicated. First and foremost, look at the terms of your contracts with your Doctors. With a normal service agreement, the practice supplies services for the benefit of the Doctor, and they, in turn, maintain their own patient records and comply with record keeping.</p>
<p>What if the patient sees multiple doctors in the practice?</p>	<p>It will depend on what your written agreement says with each of the doctors. If you have a 'true' service agreement and the doctors are conducting their own independent businesses, the patient is free to see any doctor, and they each have a relationship with the patient. As a result, each doctor will have an interest in the patient record.</p>

Question	Answer
Is there an exemption for practices in rural settings?	There are reduced payroll tax levies in most states and territories but no exemptions.
If the business has 'Practice' in its title/registered business name, is that something they need to change for payroll tax purposes?	<p>It will be a factor that the revenue office considers, but you must also consider the commercial implications for your business if you make too many variations.</p> <p>Provided that your agreements with the doctors are clear and the way you present yourself to the public is accurate (i.e. as a service provider that supports the doctors so that the doctors can provide care), it will be difficult for the revenue office to argue that the use of 'practice' creates an exposure. Also, most practices employ nurses and have registrars providing medical care.</p>
For online booking systems, e.g. HotDoc, can all doctors using rooms in practice be listed (including contracted/tenanted doctors), or only employed doctors/practice principals?	<p>The services the practices offer require this to be done, but you'd need to be very careful with the wording you choose when referring to these practitioners.</p> <p>The fact you're advertising them and putting Doctors on a website is not a problem; it's more saying, "This Doctor works for/ is engaged by us to provide services". It should be written more around "We (the practice) support the Doctors so that they can provide care to their patients".</p> <p>Wording must be clear and consistent across the entire website and in any other patient/public-facing material like registration forms and other social media.</p>
How about the payment to Allied Health (e.g. Physiotherapists, Psychologists, podiatrists, dietitians)?	If you are paying practitioners, the flow of funds from the practice to the practitioners will create exposure. If they are conducting their independent businesses, then a clear facilities and services agreement should be used, and you should consider facilitating direct payments.
<p>Where practitioners are paying daily/hourly rates to use the room, can they be classified as subtenants?</p> <p>We have no control over their income; the income flows directly to those practitioners.</p>	If you are not providing any services other than the supply of a facility, then a Licence Agreement for the use of the space would be most appropriate. If there are any services provided, then a Facilities and Services Agreement would be appropriate.
For medical groups that operate over different states, would we still engage one advisor instead of different advisors for different state?	One advisor would be fine.
What is your view on the use of a Quistclose banking arrangement?	This would come at a significant cost to establish and would still not provide the same level of protection as direct payments from each patient to their doctors.
Can you please explain the current situation for exemption/amnesty in New South Wales?	Retrospective relief has been provided to September 2024 - see media release from 18 June 2024.

Question	Answer
<p>We are a Victorian practice. Funds come from multiple sources: private billing, consumables, bulk billing, PIP payments, DVA, TAC, and WC.</p> <p>I am confused about how they can command a tax on one source of income and not others. Could you imagine a cafe being taxed on sandwiches and not coffee? Might this decision be legally challenged?</p>	<p>It may be challenged, but, likely, we won't have a final result for months, if not years. It is recommended that practices look to bring their operations in line with the recommended position to reduce the risks of having to fund a legal challenge.</p>
<p>Have any practices in Victoria challenged the SRO and contested the result of an audit? What was the outcome?</p>	<p>Historically, yes, some have been successful, and others have not (e.g. Optical Superstore).</p>
<p>Is it worth it for doctors in Queensland to create separate bank accounts?</p>	<p>It is, particularly noting the QRO Ruling which provides that any payment direct to a practitioner's sole trader bank account will not be subject to payroll tax.</p>
<p>Is there any Bulk billing provisions in Queensland?</p>	<p>Not specifically noting that any payment direct to a practitioner will not be subject to payroll tax (effectively a greater benefit than just carving out bulk billed amounts).</p>
<p>I have a physiotherapy group (4 physiotherapists); the flow of funds comes into our medical centre, we pay them a % of receipts, we only communicate with the owner of the group and do not have control of any of the physiotherapist, is the payment to the physiotherapy group as an expense to the practice considered under payroll tax?</p>	<p>The payments will create an exposure as the revenue office will likely view this payment as evidence of your engaging the physios for their services.</p>