

# Please take a seat, your session starts soon.

## **Acknowledgement of Country**

Best Practice Software acknowledges the Traditional Custodians of Country throughout Australia and recognise their unique cultural and spiritual relationships to the land, waters, and seas and their rich contribution to society. We pay our respects to ancestors and Elders, past, present, and emerging.

Best Practice Software respects Māori as the tangata whenua and Treaty of Waitangi partners in Aotearoa New Zealand.

Right: Ginmine design from corner, radiating outwards.

Designed for the Bp Bundaberg Operations Hub Mural Project, 2021

Artist: Nicole Wone

Addresses themes of: Evolution – Adaptation of Universe and traditional Indigenous beliefs across the globe.

Beginning of time, darkness. Movement in the cosmos. Rainbow Serpent – Creation being. Ancestral lineage without our DNA





# Service Agreements and Payroll Tax Compliance

Kelly Chard, GrowthMD Ben Ryan, Avant Law



# Service Agreements and Payroll Tax Compliance



## Kelly Chard

Kelly Chard is the founder of GrowthMD, a specialist accounting and business advisory firm dedicated exclusively to the healthcare industry. Passionate about empowering healthcare businesses, Kelly provides tailored solutions that help medical practices grow, operate efficiently, and navigate the complexities of the industry.



## Ben Ryan

Ben Ryan is a Partner at Avant Law and has been working with medical practices since 2013. Ben works primarily on commercial structuring and intellectual property matters to help clients achieve strategic and commercially sensible results.



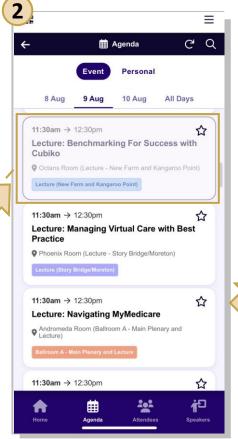
# Ask any questions using The Event App

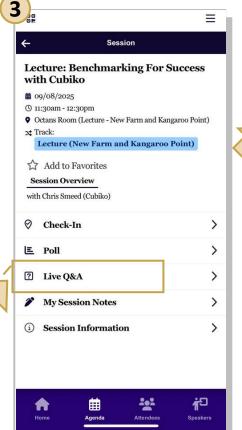


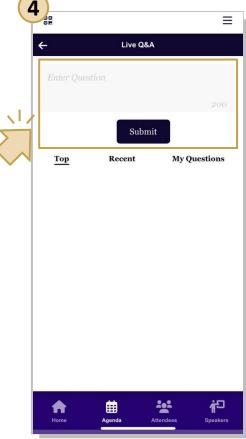
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# Service Agreements and Payroll Tax Compliance

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# **Important Notices**

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Service Agreements and Payroll Tax Compliance





# **Temperature Check**

How confident are you that your current GP engagement model and operations would stand up to a payroll tax audit?

- A) Very confident
- B) Somewhat confident
- C) Not confident
- D) Unsure



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## **Payroll Tax - Basics**

- State based tax calculated on remuneration (salaries + superannuation) paid to employees & "eligible contractors"
- Harmonisation
- Tax rates and thresholds vary in each state, administered by state revenue office not ATO
- Definition of "eligible contractor" is key component for medical practices
- Difference between employee and "eligible contractor"
- Data matching
- Contractor exemptions can apply
- Terms in contracts are important substance over form argument. Ensure the processes in your practice match the contract



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## **Relevant Contracts**

The application of payroll tax to arrangements between practitioners and the medical centre operator comes under the provisions which extend payroll tax to subcontractor arrangements.

It is important to distinguish this from a more traditional employer – employee arrangement. If you are engaging under a service agreement, super and employee entitlements won't be enlivened.

Payroll tax was extended to Contractor arrangements in 2008 and the provisions of the Payroll Tax Act are substantially aligned across most states and territories.

Certain exemptions apply to contracting arrangements, however, where an exemption does not apply, the payments to a contractor under what is deemed a "relevant contract" will be considered wages for payroll tax purposes and therefore payroll tax will apply to these payments.







## **National Position**

State/Territory	Threshold	Rate	Amnesty/Relief
QLD	\$1,300,000.00	4.75% to \$6.5 million 4.95% over \$6.5 million	GP wages are exempt
NSW	\$1,200,000.00	5.45%	Bulk Billing Support Initiative (rebate on payroll tax for GP contractors where bulk-billed/ fully funded billings are at least 80% in metro and 70% in other areas)
VIC	\$1,000,000.00	4.85% 1.2125% for regional employers	Exemption for independent and employee GPs on bulk-billed/fully funded consultations from July 2025.
ACT	\$2,000,000.00	6.85%	Exemption for independent and employee GPs on bulk-billed/fully funded consultations from July 2025 (replacing the minimum 65% requirement)
TAS	\$1,250,000.00	4% up to \$2 million 6.1% over \$2 million	No change to previous position
SA	\$1,500,000.00	Up to 4.95% for wages between \$1.5 million and \$1.7 million 4.95% over \$1.7 million	Exemption for independent and employee GPs on bulk-billed/fully funded consultations from July 2024.
NT	\$1,500,000.00	5.5%	No change to previous position
WA	\$1,000,000.00	5.5%	No change to previous position







# **Exemptions & Rebates**

Jurisdictio n	Start Date	Eligible GPs	Туре	Threshold / Conditions	Calculation
ACT	1 July 2025	Contractor and employee GPs, including registrars	Exemption	Applies only to wages for exempt medical services: bulk billed, DVA, or workers comp	Excluded Wages = GP wages × (Exempt medical services item count / Total item count) (full detail TBC)
NSW	4 Sept 2024	Contractor GPs under relevant contracts	Rebate	≥80% bulk billing (Metro) ≥70% (Regional) Employee doctors included in threshold but not rebated. Registrars excluded entirely.	Threshold Calculation= Bulk billed item count / total item count (contractor and employee GPs)  Rebate = Total Payroll Tax – Payroll Tax on GP contractor wages
QLD	1 Dec 2024	Contractor and employee GPs, including registrars	Exemption	No bulk billing threshold	Full exemption for payments to contractor and employee GPs (including registrars)
SA	1 July 2024	Contractor and employee GPs, including registrars	Exemption	Applies to bulk billed items	Exempt Wages = Payments × (Bulk billed items / Total items)
VIC	1 July 2025	Contractor and employee GPs, including registrars	Exemption	Applies to fully-funded (bulk-billed) services	Exempt Wages = GP wages × (Fully-funded \$ / Total GP billings, excluding consumables)







# **Calculation Example - SA**

### **Calculating Exempt Percentage**

Total Item Numbers - 61,699

Bulk Billed Item Numbers – 27,770

Exempt Services % - 27,770 / 61,699 = 45%

### **Applying to GP Wages**

Total Taxable Wages Paid (or Payable) to GPs - \$2,205,000

Exempt Wages Component -  $2,205,000 \times 45\% = 992,250$ 

#### **Reduced Taxable Wages**

Taxable wages to GPs to be assessed in the Annual Reconciliation is \$1,212,750

\*Final liability will depend on other non-GP wages to report, other exemptions available and grouping provisions



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# **Approach/Position Variations**

Advice sought.

Consequences understood.

Registered.

Exemptions applied.

State Government relief.

Advice sought.

Consequences understood.

Operational & financial review.

Exemptions applied.

Documented position.

**Relevant Contract** 

No Relevant Contract

Inaction.
No advice or ill-informed advice.
No clear position.







## Flow of Funds "Solution"

- A patient who incurs medical expenses, is entitled to a rebate from the Commonwealth Government under the Health Insurance Act of 1973. This benefit is payable to the patient by the Government (via Medicare) to the patient.
- The patient assigning this benefit directly to the practitioner does not create "deemed wages" under a relevant contract as the amount is not payable by the deemed employer, the amount is payable by Medicare and the patient direct to their practitioner.
- The assigned Medicare benefits are not considered payments for an employee's services as it is a statutory payment under the HIA Act.
- Where the patient pays out of pocket fees directly, they are not taken as payments to the "deemed employee" as the payment is not paid or payable by the deemed employer (being the medical centre).
- Where a practice has a relevant contract and control over the fees, even if held in a trust or clearing account, payroll tax will be enlivened.



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## Implementing Flow of Funds Changes

- Discuss with doctors in the practice a need for change.
- Establish bank accounts for practitioners call in bank manager to help set up accounts.
- Work with POS machine (training) on the allocation of funds directly to practitioners.
- PM/Bookkeeper to have view only access to the doctor's account to allow for reconciliations.
- Some practices are saying if there is no access there can be no reconciliation.
- Direct debit facilities in place (which can vary) to allow for weekly/fortnightly/monthly service fee payments.
- Potentially charge service fees on billings instead of receipts.
- Maintain a separate bank account for direct debit of any fees sent to the wrong doctor.
- Supervision payments and incentives should be dealt with appropriately so as to not trigger a relevant contract.



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# What Are The Other Exemptions?

- 1.Practitioner provides services to the public generally must apply to the Commissioner for a determination before relying on this exemption;
- 2.Practitioner performs work for any one medical centre for less than 90 days each Financial Year; or
- 3.Services are performed by two or more persons with the second or subsequent person(s) being a specialist healthcare provider.

If a medical centre intends to rely on any of these exemptions, it must be able to substantiate with sufficient evidence.







# **Service Agreement Caution**

A 'true' service agreement may not be sufficient. The reference to a practitioner being the 'principal' is not determinative.

- A Service Agreement between a medical centre and practitioner may state that the practitioner is the principal, and the medical centre only provides administrative services to the practitioner.
- Such an agreement does not prevent the application of the relevant contract provisions if the medical centre is able to:
  - Exercise operational or administrative control over the services provided to patients; or
  - Exercise operational or administrative control over when a practitioner practises and the space within the centre where that occurs.







## Other considerations for practices

- Charging a Surcharge to Patients Estimate of a surcharge to maintain profitability when considering a fee of \$85 and payroll tax rate of 5% would mean a \$10 increase to the patients to maintain the same level of profit.
- Rely on Service Agreements Provided the agreement is NOT deemed a "relevant contract."
- Be wary of "guarantees" from lawyers and accountants.
- Consider a separate supervision agreement and ways to incentivise practitioners to join without guaranteeing a minimum earn.
- Tenancy Agreements will not be considered relevant contracts but are VERY restrictive:
- Think specialist suites within a specialist medical building
- The practitioner has their own space, signage of operating hours, manages patient appointments and staff.



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## **Practical Considerations & Common Questions**

## When should I register for payroll tax?

- Calculate taxable wages (with & without GP payments)
- Consider grouping and interstate wages
- Review exemptions
- Obtain accounting & legal advice
- Register (if applicable)

## Practical steps in applying exemptions

- Register of provider details
- Providing services to the public input from provider
- Under 90 days BP/Cubiko
- Financial records, Xero classifications
- Workpaper or summary of exemptions applied







# **Key Takeaways**

## Have a discussion with your accountant and legal advisor

- Each medical centre is assessed on case-by-case basis, no one size fits all
- Assess your current risk and work out how to reduce your risk
- Review of the flow of funds and processes within your practice (if applicable)

## Don't register and report without advice

- Be informed and confident in your decision before registering and reporting
- Can be hard to "unwind" if done incorrectly
- Not advised to chop and change treatment







# **Key Takeaways**

## **Document your agreements in writing**

- Agreements must be easy to understand, clear and accurately reflect the true nature of the relationship
- It must be clear that practitioners are engaging the practice to provide them with services;
- It must be clear that the patients are engaging the practitioner, not the practice;
- The practice should not have any control over the practitioner e.g. restraints, rosters, patients; and
- Ensure the services / premises provider is purely an administrative and management services business ONLY and does not exercise control over the practitioners.
- Signed agreements carry the most weight BUT ensure it reflects your practice operations.
- Agreements should be consistent with practitioners if you want to have administrative/operative controls then you should document accordingly and account for payroll tax







# **Key Takeaways**

## Align your financial and operational processes with your agreements

- Take the time to understand the dos and don'ts
- Financial workflows, invoices and documentation should be in line with your agreements
- Accountants, bookkeepers and practice staff should understand the agreements
- BAS reporting, Income tax returns and Payroll tax returns should all align
- Keep good documentation







# Questions?



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