

Payroll Tax

Briefing for Minister Butler ahead of National Cabinet meeting

2 February 2023

What we would like the Federal Government to support through National Cabinet

To strongly encourage the States and Territories to take a unified approach to exempt practices from payroll tax for the earnings of contractor GPs.

Why is this important?

The RACGP believes that the imposition of payroll tax on the earnings of contractor GPs would result in:

- an undermining of the work of the Strengthening Medicare Taskforce and the broader reform of primary care
- up to 20% of GP practices folding
- ~80% of GPs increasing fees by \$10-15 for a standard consultation
- a dramatic reduction in bulk-billing rates
- an increase in ambulance ramping and wait times at hospital emergency departments
- rural and remote communities losing their doctors
- a resulting blow-out in health sector costs.

Key Points:

- GP clinics already pay payroll tax on wages of receptionists, practice managers, practice nurses and employed GPs
- GPs typically rent consulting rooms and pay services fee to GP clinic in return for share of billings; it is not an employment relationship
- States, Territories and the Commonwealth have made a commitment to competitive neutrality principles
- Public hospitals and ambulance services are exempt from payroll tax, further exacerbating workforce issues
- States and territories have signed up to a Harmonisation Joint Protocol, that includes commitment to consistency in legislation (other than WA and, to a lesser extent, Qld) and administration, and sharing of information
- Currently an appeal against an assessment pending in NSW courts
- ACCC considers GPs to be independent businesses (and required an authorisation of price setting practices)

Contact

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Background Information

The National Uniform Protocol

On 29 March 2007 State and Territory Treasurers announced a decision to overhaul payroll tax arrangements to achieve greater legislative and administrative harmonisation. Six of the Australian states and territories have enacted harmonised payroll tax legislation with Queensland amending their existing legislation by introducing aligned provisions in the key areas. Western Australia has enacted similar aligned provisions within their payroll tax legislation from 1st July 2012. Refer to the [2010 Harmonisation Joint Protocol](#).

Australian States and Territories have also committed to greater administrative consistency. As a result:

- Payroll tax revenue rulings / Public rulings / Circulars have been harmonised and published
- Where an employer operates in more than one Australian state and territory, the relevant revenue offices will consult one another and share relevant taxpayer information in determining private rulings and objections matters
- For the purposes of administering State and Territory taxation laws, information is exchanged with other revenue offices, the Australian Taxation Office and other government agencies to assist in the proper identification and accurate assessment of taxation liabilities.

Public hospitals and ambulance services are exempt from payroll tax.

Current legal position

The recent New South Wales Civil and Administrative Tribunal Appeal Panel's decision in [Thomas and Naaz Pty Ltd v Chief Commissioner of State Revenue \[2022\] NSWCATAP 220](#) dismissed the medical practice's appeal and confirmed the New South Wales Civil and Administrative Tribunal's decision that payments from a medical practice to doctors who worked at the practice are subject to payroll tax. That is, the payments made by the medical practice to its doctors were "relevant contracts" under the *Payroll Tax Act 2007* (NSW) and were deemed to be wages under the Act and subject to payroll tax. An appeal against that decision is pending.

State and Territory Revenue Offices have, however, indicated that they will be undertaking assessments/audits of general practice clinics in the wake of this ruling.

Under the uniform legislation, there is no limit on retrospective assessments, although the convention of the various Revenue Offices is to limit it to the past five years. Five years retrospectivity would be financially crippling for GP clinics if payroll tax were to be levied on them.

Arrangements between GP clinics and GPs

Although engagement arrangements vary widely (including explicit employment contracts in some cases), the business model typically involves independent GPs renting space from GP clinics, and contracting with the clinic to provide administrative, billing and other support, plus consumables etc. In return, the GP pays the clinic an agreed proportion of the GP's billings. The GP typically sets his or her own hours and acts independently on clinical matters (although they may seek advice from other GPs engaged by the clinic).

The Australian Competition and Consumer Commission (ACCC) has [authorised GPs](#) who practise in defined business structures to set intra-practice fees and to collectively bargain as single practices in relation to the provision of Visiting Medical Officer services to public hospitals and with Primary Health Networks. The ACCC has accepted, then, that GPs are independent businesses, potentially in competition with each other, such that that business practice requires authorisation.

GP clinics do pay payroll tax (assuming that their total wages bills are above the relevant threshold) on the wages of receptionists, practice managers, practice nurses and employed GPs. GP clinics accept that this is appropriate and are not seeking to have those wages and/or relevant contracts exempted from payroll tax; merely that of contractor GPs.

The likely effect of imposition of payroll tax on general practice

Any imposition of payroll tax on the earnings of contractor GPs would be levied on the practice owner(s). Clinics would be forced to either absorb that additional cost or pass it onto the GPs in terms of the share of revenue they charge for the provision of support and the rental of the consulting rooms.

The RACGP conducted a poll of its members about their response should payroll tax be imposed on the earnings of contractor GPs. Almost 20% indicated that this would lead to their GP clinic being unable to continue business, and almost 80% indicated that they would either introduce or increase gap payments to patients. We estimate that GPs would charge patients an additional \$10-15 for a standard consultation. The imposition of payroll tax would have an adverse impact on an already under-supplied GP workforce and lead to an increase in emergency department presentations. We know that 40% of all emergency department presentations are already for non-urgent issues.

In essence, then, we believe that the imposition of payroll tax on the earnings of contractor GPs would result in:

1. a dramatic reduction in bulk-billing rates;
2. an increase in ambulance ramping and wait times at hospital emergency departments;
3. rural and remote communities losing their doctors;
4. an irrevocable change in the way in which GP services are delivered to patients and their communities; and
5. a resulting blow-out in health sector costs that taxpayers will be forced to foot.