TAX MATTERS FOR MEDICAL & DENTAL PRACTITIONERS

2024 SPRING EDITION

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We are an accounting firm specialising in providing accounting, taxation and advisory services to medical and dental professionals. As a result of our many years of experience, we have a comprehensive understanding of the needs, issues and concerns that are unique to medical and dental professionals.

Please refer to our website for further details.

WELCOME TO OUR SPRING EDITION

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PAYROLL TAX - IMPLICATIONS FOR ACT MEDICAL CENTRES

In August/September 2023, the **ACT Revenue Office**, Revenue NSW and State Revenue Office of Victoria released identical rulings/revenue circulars clarifying their position on the payroll tax liabilities of medical centres. The rulings follow on from similar rulings of the State Revenue Office of Queensland and Commissioner of State Taxation of South Australia.

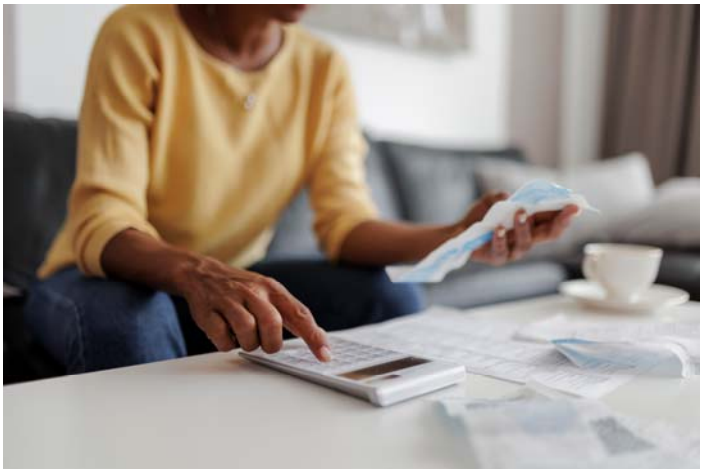
The rulings take into account precedents established by two recent payroll tax cases. Thomas and Naaz Pty Ltd v Chief Commissioner of State Revenue and Commissioner of State Revenue v The Optical Superstore Pty Ltd.

The cases make it clear that payroll tax not only applies to employees of a medical centre but may also apply to contractor doctors. The rulings also apply to dental clinics and other healthcare practices.

Whether payments to a 'contractor' doctor by the medical centre are liable to payroll tax, will depend on whether the arrangement between the doctor and medical centre, is deemed a '**relevant contract'**.

Per ACT Revenue Office Circular PTA041, a contract between an entity that conducts a medical centre, and a practitioner is a relevant contract, if all the following apply:

a. the practitioner carries on a business of providing medical-related services to patients;
b. in the course of conducting its business, the medical centre:
   i) provides members of the public with access to medical-related services; and
   ii) engages a practitioner to supply services to the medical centre by serving patients on its behalf; and
c. an exemption under section 32(2) of the Act does not apply.



Exemptions

In the ACT, the exemption most likely to apply to a contract between a medical centre and a practitioner is where the practitioner provides services to the public generally. The factors considered to determine if the exemption applies include:

- whether the practitioner provides medical services to a number of other unrelated medical centres during the financial year
- whether the practitioner for the financial year, derives a greater amount of income from the other unrelated medical centres, than the medical centre seeking to claim the exemption
- the contract between the practitioner and medical centre does not:
  - tie the practitioner to the medical centre;
  - restrict the practitioner from providing medical services to other medical centres
- the practitioner is proactive during the financial year, in sourcing work from other medical centres
- during the financial year the practitioner works concurrently with other medical centres

If the above factors are not able to be satisfied, an exemption may still be available in the following circumstances:

- the practitioner provides services of the same type to the medical centre claiming the exemption, and to one or more other unrelated medical centres during the financial year, and
- the practitioner provides services of the type to the medical centre claiming the exclusion of an average of 10 days or less per month (excluding the months in which no services were provided to the medical centre)

Satisfying the above exemptions, would in reality, be difficult.

It had been suggested, based on the court's observations in the Thomas and Naaz Pty Ltd case, an effective solution to the problem, is for the patient to pay the practitioner fee amount direct into the practitioner's bank account. The practitioner then pays the service fee from their bank account to the medical centre. However, the ACT Revenue Office have advised in an information presentation, located on their website, https://www.revenue.act.gov.au/payroll-tax?result_1060955_result_page=9 that such an arrangement will not exempt the medical clinic from paying payroll tax on the practitioner's earnings.

Amnesty

On the 26 August 2023, the ACT Government made the following announcements:

- it will waive any payroll tax liabilities up until 30 June 2023 for medical practices which have not paid payroll tax on payments to general practitioners. The exemption is automatic.
- a further temporary amnesty will apply to 30 June 2025 for GP clinics that:
  - bulk bill at least 65% of GP attendances; and
  - have registered for MyMedicare; and
  - register to receive the amnesty with the ACT Revenue Office by 29 February 2024

Payroll tax is payable where an employer's total Australian taxable wages exceed a threshold amount. The threshold levels and rates of tax applying for the states of ACT, NSW, QLD and VIC are as follows for the 2024/2025:

State	Tax Rate	Wages Threshold (Monthly)	Wages Threshold (Annually)
ACT	6.85%	166,667	2,000,000
NSW	5.45%	100,000	1,200,000
QLD	4.75% - 4.95%	108,333	1,300,000
VIC	4.85%	75,000	900,000

Where to from here?

It is recommended practice owners:

- determine whether for each practitioner an exemption may apply;
- consider the post 30 June 2023 bulk billing amnesty;
- stay up to date with possible further payroll tax changes;
- contact your accountant for guidance and advice.

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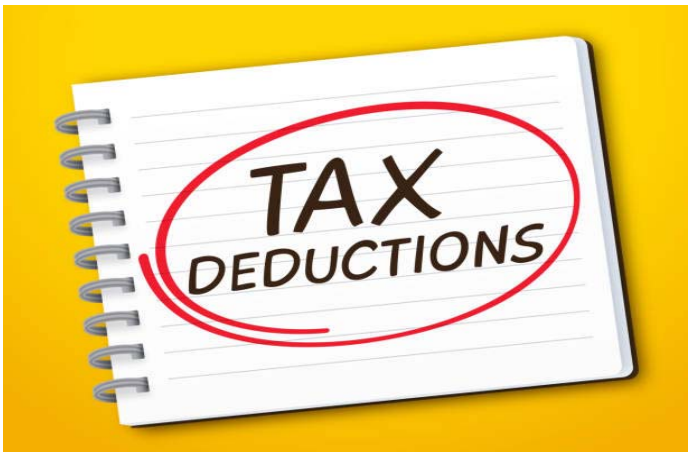


POSSIBLE TAX-DEDUCTIBLE EXPENSES FOR A PRACTITIONER WORKING FROM A MEDICAL OR DENTAL CLINIC

A practitioner working from a medical or dental clinic, on an independent basis, is generally provided with the necessary facilities and administration support to enable them to provide healthcare services. For this the practitioner pays a service fee, which in most circumstances is calculated as a percentage of the patient fees derived. As most of the practitioners expenses are included in this service fee (which is tax deductible), other deductions they can claim are limited. Expenses not included in the service fee, able to be claimed as a deduction (assuming the expense has actually been incurred) include the following;

- Professional Indemnity Insurance
- Income Protection Insurance
- Work related use of motor vehicle
- Work related use of home internet
- Home office use claim – generally based on cents per hour, which covers electricity, internet, telephone, stationery and computer consumables
- Professional Memberships (i.e. AMA, RACGP, AHPRA, ADA)
- Seminar and Conference fees, including travel and accommodation costs
- Superannuation Contributions
- Subscriptions to Medical & Dental Journals
- Medical & Dental equipment
- Electronic devices, such as a laptop and mobile phone. A log record would however need to be maintained to determine the business use percentage of such devices. The log record will determine the amount of the deduction claim.
- Protective clothing, such as medical scrubs
- Donations
- Professional library
- Tax Agent Fees

TAX DEDUCTION TO BE DENIED FOR INTEREST CHARGED BY THE ATO

The government has announced, with effect from **1 July 2025**, it will amend the tax law to deny deductions for ATO interest charges.

The measure will mean taxpayers will no longer be able to claim a deduction for general interest charges (GIC) and shortfall interest charges (SIC). Currently the GIC and SIC rate are 11.36% and 7.36% respectively.

GIC is payable when a taxpayer does not pay tax on time.The tax could be income tax, PAYG Tax Instalments, BAS tax etc.

SIC is payable in relation to errors made in a tax return that results in the underpayment of tax.

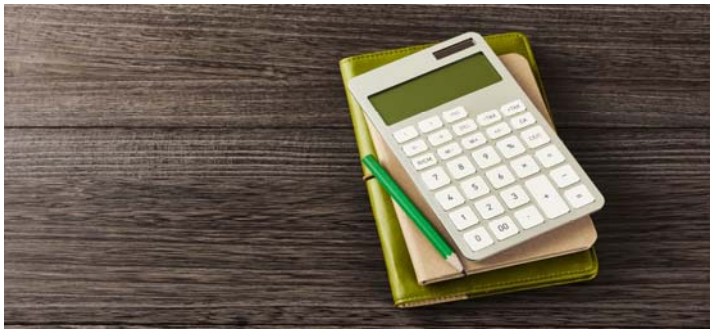
Taxpayers with outstanding tax debts who are currently negotiating repayment plans need to consider the potential impact of these changes.

The measure will certainly act as a disincentive to use the ATO as a lending institution, an outcome the government is wanting to achieve. Taxpayers will need to shift to traditional lending institutions where interest rates may be cheaper and the interest tax deductible.

Superannuation contribution caps to increase from 1 July 2024

With effect from 1 July 2024, the superannuation cap limits have increased, as detailed below:

- the concessional contribution cap has increased from $27,500 to $30,000 for all individuals regardless of age;
- the non-concessional cap has increased from $110,000 to $120,000. This also means the maximum available, under the non-concessional contribution bring forward provisions, has increased from $330,000 to $360,000.



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TAX PLANNING TIP – UNUSED CARRIED FORWARD SUPERANNUATION BALANCE

The carried forward superannuation rules allow an individual to carry forward up to five years worth of unused concessional super contributions.

If an unused carried forward concessional contribution amount is not applied within the subsequent five years, the unused cap amount will expire and is lost. The unused concessional cap amounts are applied in order, from the earliest year to the most recent year. The 2024/2025 year is the last year the unused concessional cap amount in respect of the 2019/2020 year can be used. As the saying goes, use it or lose it.

Example

As at 30 June 2024 Sam has a total carried forward concessional contribution balance of $45,000, of which $15,000 relates to the 2019-2020 year. For the 2024/2025 year, Sam's maximum concessional super cap available is $75,000 (i.e. $30,000 plus $45,000). For the 2024/2025 year (provided Sam also satisfies the $500,000 Total Superannuation Balance (TSB) criteria – explained below) Sam's concessional super contributions could amount to $75,000, instead of the cap limit of $30,000.

If Sam's actual concessional superannuation contributions for 2024/2025 amounted to $35,000, the unused amount of the carried forward concessional contributions in respect of the 2019/2020 year of $10,000 (i.e.$15,000 less $5,000) would be lost. Sam's total carried forward concessional contribution balance as at 30 June 2025 would now total only $30,000.

To access the carried forward superannuation concession, your TSB, which includes all your super fund member balances, must be less than $500,000 just before the start of the income year (i.e. if an unused concessional contribution cap amount is to be applied in the 2024/2025 year, your TSB must be less than $500,000 on 30 June 2024).

Unused concessional cap amounts are applied automatically by the ATO once you exceed the cap in any year.

BEFORE CLAIMING A TAX DEDUCTION FOR PERSONAL SUPERANNUATION CONTRIBUTIONS, MAKE SURE YOU SATISFY THE ELIGIBILITY CRITERIA

A deduction for a personal superannuation contribution **can only be made** if you satisfy the following criteria:

- the contribution must be made to a complying superannuation fund and not to a Commonwealth public sector superannuation scheme;
- if you were aged 67 years or over (but less than 75 years) at the time of making the contribution, you satisfied the 'work test' just prior to making the contribution. The work test is satisfied if you work for a minimum of 40 hours in any 30 consecutive day period. An exemption from the work test applies for one year only for retirees aged 67-74, where their member's balance is below $300,000;
- the 'deduction notice' requirements. These requirements will be satisfied when:
  - (i) the individual has given a valid written notice in the approved form to their super fund (within the relevant time frame), advising of the amount of personal contributions they intend to claim as a tax deduction. The time frame for providing this notice is by the **earlier** of:
    - by the time the individual's tax return is lodged for the income year in which the contribution is made; and
    - the end of the following income year (i.e. 30 June), and
  - (ii) the super fund has provided the individual with a written acknowledgment of their notice.

If you have any questions on the topics covered, please contact us by email or call our office on (02) 6239 5011:

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