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# Payroll tax webinar Q&A

## DISCLAIMER:

**This presentation is a summary of important legal and commercial issues.**

**The presentation does not exhaustively cover all issues that may be relevant to any given circumstance.**

**You should seek specific legal and accounting advice before applying any of the issues covered in this presentation.**

**Reduce bulk billing now? Does private billing help?**

*Reducing bulk billing does not get rid of compliance costs. It will help meet those costs.*

**Should it not be only the service fee reported?**

*Not clear, ideally the practice reports with an appropriate disclaimer their BAS and income tax reportable figures i.e. income, expenses, cash, accruals etc. A medically audit experienced qualified accountant and lawyer who can provide the appropriate complying software can achieve this outcome. It should be automated and integrated into the practices and the independent practitioners accounting system. This will ensure symmetry of information that is reconcilable. It does exist.*

**So what should we say instead of our Doctors? The Doctors available are; ?**

*Context is important. Consult a lawyer. If they are tenant doctors then state that the independent Providers whose practice are at this location are: Dr x, Dr Y  etc…*

**Can you explain a bit more about the websites, what's the right wording?**

*Removing any reference to 'doctors/medical practitioners' as "Our…" that may imply that the Drs are the employees of the practice. The test would be asking a third party: what is understood by that statement to mean to a reasonable person.*

**If each doctor has their own bank account, in a practice with 20 doctors, does this mean there are 20 bank accounts? And therefore 20 EFTPOS machines?**

*No, programs like Tyro integrate with major PMS vendors. This eliminates the 20 EFTPOS facility issue, but yes each doctor will have to set up their own ABN bank linked bank account. So there should be 20 bank accounts that your service agreements should allow the practice to access. There are software programs that can automate and integrate with all these key functions.*

**Does the statement on medicare through my gov count as a patient invoice?**

*No. Unfortunately, not.*

**So how is the registrar employed?**

*Under the name of the clinical supervisor, either as a sole trader, medical partnership (if more than one pDr practice owner) or a medical practice company (this is not ideal for tax and compliance purposes).*

**At the moment the clinic is getting the gross billing of the doctors and then they pay the percentage to the doctors after getting service fees. Is there any issue with this?**

*The practice should get each of their doctors to set up their own separate ABN bank linked bank account. Then prepare for their income to be banked into this account first. An appropriate service agreement should allow access to this account to allow reconciliation of any patient money. See earlier questions on how practice agreements and technology can be used to automate the practical side of this problem.*

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**Why do you have a medical clinic management trust as opposed to a clinic as a Pty Ltd?**

*If you are running a service trust its purpose is not to employ a fee for service professional staff. This is usually set up this way for asset protection purposes. It can be a company or a trust. Depending on the trust deed, trusts are more flexible and ideal for succession planning and asset protection than companies.*

**Can something signed in writing from the doctors bypass the separate bank account structure? e.g. "I, Dr X, agree that invoices generated by my tenancy will be deposited directly into the service entity bank account and each paycycle I will draw 35% of that fee".**

*Good attempt but this will not work with the new e-invoicing laws. It may have worked in the past, but there is a risk your practice will continuously be flagged for a please explain audit due to the ATO's new data matching technology. If you can afford the audit, costs and disruption this is a decision the practice will need to make.*

**It appears the invoice to the patient has to be on behalf of the doctor, even though it is issued by the practice. Is that right?**

*No practice should ever issue an invoice. It is the doctor who issues the invoice. The practice acts more like a bookkeeper and does it (if it is a service arrangement) for the doctor.*

**Isn't part of the management and service that the managing entity is providing the Tenant doctors - is that they can receive funds for them, and then disburse the funds after the payment of the service fees?**

*This is a common way. We do not recommend this in the future. Separate bank accounts for each doctor. All patient fees are deposited into their account and then the practice via a signed service agreement deducts its mutually agreed fee.*

**Does each individual doctor need to be paid by the patient via their own account or just the owner (equity holder)?**

*Yes, each individual doctor needs to have their patient pay their fee into each individual doctor's bank account, unless they are employing or subcontracting in the doctor's services and then on selling them to the patient (e.g. locum).*

**So if your practice has a logo and name, do you need to remove these and only use the doctor's name and details on stationery?**

*Ideally yes to avoid any confusion. Many want to keep their branding so all stationary should have an appropriate disclaimer on letterheads, invoices and any other electronic information to patients.*

**Can we have examples of what should and should not be on letterhead, fax cover sheets and the disclaimer please? Is it possible to send them with the recording?**

*This may be impacted by the medical practice's legal structure and the service agreements in place. You should seek specific legal advice based on your legal structure and business model.*

**How do you manage the discrepancies between a 'contractor' with shared debt recovery?**

*The service agreement resolves this issue.*

**Should we change all our contractors as employees?**

*No, this may make your situation worse. Seek appropriate legal and accounting advice. You definitely will pay payroll tax and new employer on costs e.g. super, workcover and be subject to Fair Work rules and medico-legal liability. It is a more riskier proposition. Doctors generally do not like to be controlled by their employer. This may create a recruitment and retention problem.*

**Is the government aware (or would there be some leniency) of the fact that a lot of medical software providers do not permit practices to be fully compliant in this manner? (e.g. HotDoc**

**telehealth payments only allow online payments for all practitioners to go into the one account, and cannot be settled into different bank accounts according to practitioner).**

*I expect some leniency, but that is not the problem. It is unnecessarily receiving a letter and then having to incur legal and accounting costs so you can carefully respond. You want to avoid accidentally opening a pandora's box of issues.*

*We have attempted to bring this to the Government's attention. However, we have not received an answer from the Government in writing to date.*

*One problem here…a lot of what is going on in terms of process is driven by Services Australia. They have stated to TMR that they are not the ATO and therefore every practice needs to make sure they are compliant for tax. Some SA advice is directly in conflict with tax law. Bottom line, be careful because as far as SA is concerned it's all care and no responsibility. The ATO and state revenue offices aren't going to take into account what SA do.*

**As we currently have ALL payments from patients, Workers Comp payments and the HW 027 payments. What should we have done? Can we fix it now?**

*Great question, you will first have to review your business model, then your legal and tax structure and practice agreements. Once you are satisfied this is correct then consider which form is the correct form. You should at least start using the correct form. Seek professional legal and accounting advice before notifying any regulatory agencies.*

**We have 6 doctors. How does Best Practice pay into each individual doctor's account? How do we do it via eft payments and EFTPOS?**

*Many practices use Tyro to fix this problem of multiple EFTPOS facilities.*

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**If the invoices are raised and then paid into the individual doctor's account, then how does the practice know that the money is in, and therefore invoice for the service fees? What if the doctor does not pay the service fee?**

*Signed service agreements that allow access to their banking arrangements online using automated software can address these concerns.*

*Subject to the practice's legal structure, the service agreements resolve this issue.*

**How does it work with vaccines provision? The Service entity buys and sells vaccines to a patient. The service is charged separately to the patient. Is that the same as the covid vaccines where the service entity maintains stocks and stores them using employee staff-RNs ETC, but the independent doctor administers it.**

*This is a tricky area. Need to be careful when it comes to consumables and vaccines. It is a common error we see where service entities fail to charge and pay GST. If they are not provided (invoiced) by the legally treating practitioner ABN and are not used during the consult they may attract GST. If it is a service entity the practice is liable to pay for GST collected or not. It is important you are clear on your business model, legal and tax structure, practice agreements and administration arrangements. Seek legal and accounting advice.*

***The practice invoices the patient separately for the vaccine**

*Ideally the treating doctor does so they do not have to charge GST when treating the patient.*

**Can our doctors become contractors rather than tenant doctors? Would this exclude all these changes with the payroll tax e.g. individual abn bank accounts.**

*Contractor doctors are creating attention from the payroll and income tax office. The tenant doctor model is the antithesis of this type of arrangement, it better reflects what practice owners and providers want. It virtually eliminates any medical negligence or vicarious liability. This is the primary concern for all practice owners.*

*Contractors would/could be seen as employees according to recent court decisions.*

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**Speaking from a practical point of view, every doctor would need their own EFTPOS machine. a large practice may need over 30 EFTPOS machines. Is this correct?**

*No, programs like Tyro integrate with major PMS vendors. This eliminates the 30 EFTPOS facility issue, but yes each doctor will have to set up their own ABN bank linked bank account. So, there should be 30 bank accounts that your service agreements should allow the practice to access. There are software programs that can automate and integrate with all these key functions.*

**Our EFTPOS machine has all 8 doctors on EFTPOS machine that can be highlighted for payment**

*Great, make sure it is set up correctly.*

**Some of the EFTPOS providers (Tyro does this) allows multiple doctors to have a merchant facility with them to process payments to their own bank accounts, and then attach that merchant facility (MID) to one practice terminal. This is fully supported in MD and BP.**

*This is correct, but these major vendors at this stage are not e-invoicing compliant. This is another major undertaking.*

**Based on last AMA webinar and tonight, my thought is, how Practice managers, owners and GPs, clinicians all understand this? I mean all should be on the same boat? I am confused.**

*Seek advice from medically audit experienced qualified accountant and lawyer who have practical grass roots experience and keep up to date with webinars and regulatory announcements. It is a complex area. Good advisers who can deep dive are hard to find as it is a specialist area. You can't wing it.*

**Are you working with Genie solutions software or just Medical Director and Best Practice?**

*We are working with all providers who have asked for our assistance. To be quite honest this is very new and unknown to them. The Health Service Australia's public position has not been as helpful in ensuring there is appropriate compliance. We are happy to talk to vendors.*

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**Recently our company asked us to sign a new contract to avoid payroll tax. We use tyrro and now payment goes to individual doctors and then we pay a service fee to the company. Is this legal and is it in my favour?**

*If the primary reason you are signing any agreement is to avoid any tax, this is a breach of the Act. No clever agreement and banking arrangement will save you if this is your understanding. It may be considered tax fraud. Please seek professional legal and taxation advice.*

**Can something signed in writing from the doctors bypass the separate bank account structure? e.g. "I, Dr X, agree that invoices generated by my tenancy will be deposited directly into the service entity bank account and each paycycle I will draw 35% of that fee".**

*The doctor should invoice the patients directly. If the practice accepts funds directly on behalf of the doctor, this would potentially be viewed as employer/employee base.*

**WHat are reasonable 'commercial rates' to charge tenant doctors, and how are these assessed as valid by the ATO?**

*A medically audit experienced lawyer and accountant can give you a better assessment and guarantee. To the contrary there are many laws and guidelines that are clear. This is why practices are losing their cases.*

*This is subject to the specific location of the practice.*