

**INQUIRY INTO APPLICATION OF THE CONTRACTOR
AND EMPLOYMENT AGENT PROVISIONS IN THE
PAYROLL TAX ACT 2007**

Organisation: Australian Dental Association NSW Branch
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Portfolio Committee 1 – Premier and Finance
Parliament House
Macquarie Street
Sydney NSW 2000

Submission regarding the Application of the Contractor and Employment Agent Provisions in the Payroll Tax Act 2007

Dear Committee Members,

I write on behalf of the Australian Dental Association NSW Branch (ADA NSW) in response to the inquiry into the application of the contractor and employment agent provisions in the Payroll Tax Act 2007 (the Act). We appreciate the opportunity to provide insight into how these provisions impact dental practices, the broader healthcare industry, and, most importantly, access to essential dental care for the people of New South Wales.

Introduction and Overview

ADA NSW represents over 4,500 member dentists across New South Wales, advocating for policies that support improved oral health outcomes and quality patient care. The recent application of payroll tax provisions to independent contractors jeopardises the traditional service model that has allowed dentists to provide care in a flexible and patient-centred manner. This submission reflects the collective concerns of our membership and underscores the urgency of addressing this issue.

This submission addresses several terms of reference outlined in the inquiry, particularly:

- The provisions in Division 7 of Part 3 of the Payroll Tax Act 2007 on contractors (Term of Reference (a));
- The impact of revenue rulings and Commissioner's practice notes issued by Revenue NSW (Term of Reference (c));
- The implications of court decisions, including the Thomas and Naaz case, on independent dental practitioners (Term of Reference (d));
- The impact of these provisions on the healthcare sector, particularly small and independently operated dental clinics (Term of Reference (e)); and
- Other related matters, including the potential deterrent effect on bulk billing and government-supported dental programs (Term of Reference (f)).

Key Issues and Implications

1. The Impact on Independent Dental Practitioners and Patient Access

The current payroll tax provisions create significant uncertainty and financial risk for individual clinicians and practice owners working under service and facility agreements. Historically, many dentists have operated as sole practitioners within shared clinic environments, contributing to a collaborative model that ensures continuity of care for patients. By applying payroll tax to these arrangements, the government risks dismantling a system that has long been essential to dental healthcare delivery.

- Higher compliance and tax burdens may force many small dental practices to close or consolidate, reducing competition and access to care.
- Increased treatment costs will be passed on to patients, exacerbating existing affordability concerns, particularly for preventive dental services.
- The financial strain on practitioners will discourage participation in essential government-funded programs, such as the Child Dental Benefits Schedule (CDBS) and the Department of Veterans' Affairs (DVA) dental schemes.
- Practices in regional and rural areas, where workforce shortages are already an issue, may become unsustainable, leading to further inequities in access to oral healthcare.

2. Disincentivising Bulk Billing and Government-Funded Dental Schemes

The imposition of payroll tax on service agreements fundamentally disrupts the ability of dentists to participate in bulk billing arrangements, particularly under CDBS and DVA entitlements. Unlike private billing, where additional costs can be incorporated into pricing structures, government dental schemes set fixed rebates that do not account for increasing tax burdens. This issue also extends to those practices that participate in the Oral Health Fee For Service Scheme (OHFFSS).

- Clinics may withdraw from bulk billing entirely, leaving vulnerable populations without affordable care options.
- Dentists providing subsidised services under these schemes will be forced to absorb additional costs, further eroding practice sustainability.
- The lack of parity with general medical practitioners, who have been granted exemptions from retrospective payroll tax liabilities, is unjust and discriminatory against dental professionals.

3. Legal Uncertainty and the Need for Clarification

The Thomas and Naaz case has highlighted the precarious legal position of independent contractor arrangements in dentistry, with serious ramifications for clinicians and practice owners alike. The broad interpretation of employment-like characteristics fails to acknowledge the autonomy and professional independence of dental practitioners.

- The lack of clear legislative guidance leaves many dentists vulnerable to retrospective audits and tax penalties, which could financially devastate even long-standing practices.
- Dental practices have traditionally operated under long-accepted service agreements, and sudden reinterpretation of these agreements undermines decades of established practice models.

Recommendations

To ensure fair, consistent, and sustainable regulation of payroll tax in healthcare, ADA NSW submits the following recommendations:

1. Explicit Exemption for Healthcare Contractors:
 - Division 7 of Part 3 of the Act should be amended to explicitly exclude independent dental practitioners that are compliantly operating under service agreements.
2. Amnesty from Retrospective Payroll Tax Liabilities:
 - A moratorium on historical payroll tax audits for dental practitioners should be implemented, aligning with exemptions granted to general practitioners.
3. Clear and Consistent Regulatory Guidance:
 - Revenue NSW should issue comprehensive and unambiguous guidelines for dental practitioners and practice owners to ensure compliance without fear of arbitrary reclassification.
4. Broader Review of Payroll Tax's Impact on Healthcare:
 - The government should conduct a thorough review of payroll tax implications on essential health services, considering potential sector-wide exemptions for medical and dental practices operating under compliant services and facility agreements.

Conclusion

From the perspective of an independent clinician and oral health advocate, the current payroll tax provisions pose an existential threat to private dental practice, clinician autonomy, and patient access to care. Many small and medium-sized practices do not have the financial capacity to absorb these additional costs, and as a result, patients will suffer the most.

To safeguard the long-term sustainability of dental services, particularly for vulnerable communities, the government must act decisively to clarify, amend, and provide exemptions for dental practitioners under the Payroll Tax Act.

We appreciate the Committee's time and consideration of this submission and would welcome the opportunity to provide further evidence at hearings if required.

Yours sincerely,

Dr Dominic Aouad
President
Australian Dental Association NSW Branch