

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

**Organisation:** The Royal Australian College of General Practitioners (RACGP)  
NSW and ACT

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Portfolio Committee No. 1 – Premier and Finance  
Via email: [PortfolioCommittee1@parliament.nsw.gov.au](mailto:PortfolioCommittee1@parliament.nsw.gov.au)  
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Dear Committee,

**RE: RACGP submission to New South Wales Parliamentary Committee inquiry into the Application of the contractor and employment agent provisions in the Payroll Tax Act 2007**

The Royal Australian College of General Practitioners (RACGP) New South Wales and ACT Faculty thanks the New South Wales Parliaments' Portfolio Committee No. 1 – Premier and Finance for the invitation to make a submission to the inquiry into the Application of the contractor and employment agent provisions in the Payroll Tax Act 2007.

The RACGP is Australia's largest professional general practice organisation, representing more than 50,000 members working in or towards a career in general practice, including over 13,800 members in NSW. For more than 60 years, the RACGP has supported the backbone of Australia's health system by setting the standards for education and practice and advocating for better health and wellbeing for all Australians.

**Background**

New South Wales is a signatory of the [2010 Harmonisation Joint Protocol](#).

The March 2023 decision by the Supreme Court of NSW's Court of Appeal to reject an application on the tribunal ruling on the [Thomas and Naaz Pty Ltd vs Chief Commissioner of State Revenue](#) reaffirmed the earlier decision in favour of the Chief Commissioner of State Revenue.

The New South Wales State Revenue Office issued a [new revenue ruling](#) on 11 August 2023 to confirm the NSW Government's intention to broaden the application of payroll tax to independent practitioners. The ruling incorporates the decisions in both the [Thomas and Naaz Pty Ltd vs Chief Commissioner of State Revenue](#) and the [Commissioner of State Revenue \(Vic\) v The Optical Superstore Pty Ltd](#). The ruling sets out the application of relevant contract provisions to a general practice and considers a contract to include "an agreement, arrangement or an undertaking, whether formal or informal and whether express or implied".

On 18 June 2024, the [NSW Government announced payroll tax exemptions for the earnings of independent GPs](#). The exemptions have now been passed by both Houses and assented to NSW Parliament under the [Revenue Legislation Amendment Bill 2024](#).

Following further advocacy by RACGP NSW/ACT, the NSW Government agreed to exempt independent GP earnings derived from DVA rebates from payroll tax. The exemption has now been passed under [Revenue Legislation Further Amendment Bill 2024](#).

Payroll tax has been applied to general practices from 1 Sept 2024, with limited exclusions based on bulk-billing thresholds being met.

## Business models in general practice

At present in NSW, the application of the Payroll Tax Act 2007 (the Act) on general practices is based on a fundamental misunderstanding of clinic arrangements and service agreements, the result of which is a broad application of payroll tax that threatens the viability of general practice and adversely impacts patient access to quality GP care. The RACGP emphasises the importance of the Committee's examination of the Terms of Reference of this inquiry in relation to the business model that is most used to engage general practitioners (GPs) to provide patient care in NSW.

GP business engagement arrangements vary widely but can be grouped into three identifiable models<sup>1</sup>:

1. An independent GP renting space from general practice clinics and contracting with the clinic to provide administrative and billing support, as well as consumables and overheads. In return, the GP pays the clinic an agreed proportion of the GP's billings. In this circumstance, the GP typically sets their own hours and acts independently on clinical matters (although they may seek advice from other GPs engaged by the clinic). This business model is the most found model in NSW.
2. An independent GP renting space in a clinic without engaging the clinic, its staff, or its resources in any additional service provision. In return, the GP may have a service agreement to pay the clinic a set fee. In this circumstance, the GP typically sets their own hours, engages their own staff and medical software, and acts independently on clinical matters (although they may seek advice from other GPs engaged by the clinic).
3. An explicit employment contract in which a GP is engaged by the clinic to provide services to patients in exchange for an hourly rate or salary, which is paid directly to the GP by the practice. In this circumstance, the practice would provide all administrative and billing services, and consumables. This is the least commonly observed model in NSW.

In all models, 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.

In models 1 and 2, independent practitioners operate as sole providers and are already subject to income tax obligation with the Australian Taxation Office (ATO). Furthermore, the Australian Competition and Consumer Commission (ACCC) has authorised GPs who practice 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.

Model 3 is the least commonly observed business model in NSW; however, recent applications of The Act demonstrate an assumption on the part of NSW Government and Revenue Office that this model is the standard engagement arrangement for all GPs.

Previously, it was widely thought that such arrangements as model 1 and model 2 could not give rise to payroll tax under the Act. However, the impact of recent reviews on cases in Victoria and NSW has demonstrated risks with this model, as medical centre owners have been found liable for payroll tax under the relevant legislation.

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<sup>1</sup> Mixed models can and are being used in some practices across the state.

One example of such a case is that of [Thomas and Naaz](#). Thomas and Naaz Pty Ltd operated three bulk-billing medical centres in New South Wales.

- The independent contracting doctors practising at these centres had a written agreement outlining that Thomas and Naaz would provide administrative staff for “charging and collection of Medicare fees on behalf of the doctors”.
- The NSW Civil Administrative Tribunal (NCAT) found that the agreements between the doctors and medical practices were ‘relevant contracts’ per the NSW Payroll Tax Act and that the payments were paid to the doctors by the medical centres in ‘relation to the performance of work’ under the contract.
- NCAT concluded that the agreements were relevant contracts because:
  - Doctors were providing medical services not only to patients but to the medical centres. This was due to the agreements stating the doctors had an obligation to promote the interests of the clinics, were required to abide by their operating protocols, and would need to provide advance notices of planned leave which had to be approved by the centres.
  - There was a clear relationship between the payments and the provision of services by the doctors, rather than the payments being a return of funds already belonging to the doctors.
  - After-hours clinical rosters also made it appear the practice/business owner was setting working hours and thus added weight to the argument the doctors operated under an employer/employee relationship.

In Dr. Thomas’s practice, most doctors operated under an arrangement where Thomas and Naaz (the service entity) received patient payments and then disbursed 70% of the amount to the doctors, retaining a 30% service fee. This financial structure played a pivotal role in the tribunal’s determination that the contracts between Thomas & Naaz and the doctors constituted “relevant contracts” under payroll tax legislation.

Conversely, three allied health professionals in the practice operated under a different arrangement that did not trigger payroll tax obligations or fall under the “relevant contract” provisions. These practitioners received full payments directly from patients and later remitted 30% to the practice as a service fee. Despite having contractual terms similar to the other doctors, their payment structure meant they were not classified under the “relevant contract” provisions and were excluded from the tax audit.

The Court noted that for these three practitioners, who processed their own Medicare claims, there was a “ready mechanism” to avoid payroll tax liability under Division 7, Part 2 of the Act.

### Implications

This application of the Act is causing significant uncertainty within the profession. General practice has been chronically underfunded for decades and research data from medical appointment booking platform, HotDoc showed that majority of clinics surveyed (75%) indicated that they are currently experiencing financial strain, despite 85% having already raised fees in the past year to cover increased operational costs. The engagement of independently contracted GPs offers a cashflow solution to clinics experiencing financial strain, but the effectiveness of this solution is threatened by any payroll tax implications on the earnings of tenant GPs, as these would be levied by the practice owner(s). GP clinics already work on incredibly narrow profit margins, and the previous average of 3% is now a break-even or loss in many cases. Financial pressure is especially evident in NSW, which has seen the highest number of clinic closures of all states and territories in the past three years.

The broad application of payroll tax also significantly diminishes the Commonwealth Government’s initiatives that aim to support general practice reform. Responding to the recommendations of the [Strengthening Medicare Taskforce](#), the Commonwealth Government announced significant measures and investment into general practice in the 2023-24 Federal Budget. However, the issue of state payroll tax in NSW continues to fundamentally threaten this reform agenda and is causing significant uncertainty within the profession. The application of payroll tax on independently contracted GPs is resulting in a reduction in bulk billing rates, higher out of pocket costs for patients, and an irrevocable change in the way in which GP services are delivered to patients and their communities.

The most recent Medicare data ([December quarter 2024-25](#)) provided by the Department of Health and Aged Care demonstrates that:

- Since the introduction of payroll tax on independent contractor earnings in general practice in NSW on 4 September 2024, the MBS bulk billing rate for non-referred GP attendances has fallen from 82.2% in the September quarter to 81.9% in the December quarter. This is despite the assurances from the NSW Government that the initiative would drive up access to bulk billing in NSW.
- The average patient contribution for out of hospital patients in the same periods has fallen slightly from \$45.64 to \$44.86, indicating that despite the additional financial burden imposed by payroll tax, general practices have not yet handed these additional costs to their patients, choosing at this stage to shoulder the additional costs rather than add to the financial burden of their patients during a cost of living crisis. However, it is unlikely that general practices will be able to continue to do this, as the cost of running a business to deliver quality care will also take its toll.

### Opportunity

To protect the continued provision of quality, affordable care for all Australians, the RACGP is calling for a nationally coordinated approach to the application of payroll tax on independent general practitioners, with Queensland as the benchmark.

On 12 December 2024 the new QLD Treasurer announced an administrative arrangement that allows for wages paid or payable by a medical practice to a general practitioner to be exempt from payroll tax and the mental health levy and includes the relevant meanings of 'medical practice' and 'general practitioner'. Subsequently the Queensland Government has started the process to make the administrative arrangements law through a change to the legislation. A Parliamentary Committee review of the proposed legislation was tabled on Friday 7 February 2025 that recommended the QLD Parliament pass the proposed Bill and make the changes to the legislation.

In Victoria, the *State Taxation Further Amendment Act 2024* (Vic) received Royal Assent on 3 December 2024. This legislation introduced an exemption into the *Payroll Tax Act 2007* (Vic) from payroll tax for wages paid or payable to contractor general practitioners and employee general practitioners in relation to bulk-billed consultations from 1 July 2025. All Victorian GP businesses can obtain relief from any outstanding or future assessment issued for payroll tax on payments to contractor general practitioners for any periods up to, and including, 30 June 2024.

In May 2023, the South Australian Government announced that they would exempt the earnings of both independent and employed GPs for bulk-billed services provided to patients from payroll tax liabilities. This exemption commenced on 1 July 2024.

While payroll tax is a state and territory tax, the inconsistencies when comparing the application of the contractor and employment agent provisions in the Payroll Tax Act 2007 in NSW to those in other jurisdictions demonstrate an opportunity to create clarity so that general practices can ensure their business models accurately reflect their work arrangements with independent practitioners, and to support the future viability of the general practice profession in NSW by harmonising with the NSW Government.

The RACGP NSW&ACT Faculty implores the committee to consider the applications of the contractor and employment agent provisions in the Payroll Tax Act 2007 within the framework of the healthcare models that support the viability of the general practice sector, allowing GPs to continue providing the safe, affordable and high-quality healthcare our communities deserve.



**RACGP**  
Royal Australian College  
of General Practitioners

Healthy Profession.  
Healthy Australia.

Yours sincerely

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