

PRIVATE PRACTICE

Background

The right to private practice is conferred on medical staff under the terms of the EBA and their own individual employment contract.

The right to private practice grew out of recommendations of the Dillon report of 1959. The report recommended that full-time medical specialists employed in the public hospital system should be entitled to treat private patients on a limited basis, provided certain criteria were met. More recent Certified Agreements have also conferred this entitlement on sessional medical specialist staff.

The Australian Taxation Office reviewed Victorian Rights of Private Practice (RoPP) models and issued a Class ruling CR 2005/26. This class ruling sets out the requirements and implications of participating in private practice under the 100% model (*where a 100% of the gross fees received from Medicare, health funds and any other party billed under the RoPP are paid into an RCH account*) and arose from a 2004 request by the Department of Human Services to clarify the GST position in relation to medical staff participating in a Right of Private practice.

The Hospital prefers all private practice to be undertaken through the 100% model as it minimises the taxation consequences for both the hospital and the individual staff member, and reduces complexity as GST does not need to be charged on transactions between the medical staff member and the hospital.

Preliminary Requirements

Staff participating in a Private Practice Fund should have:

- Private Practice agreement (PP) between them and the Hospital granting the staff member the rights of private practice and outlining the terms and conditions that it will be granted under. This document will be a component of the contract of employment
- Private Practice Fund (PPF) agreement identifying how the private practice fund is to operate

On accepting the offer of employment the staff member should sign the PP Agreement and the PPF Fund Agreement.

Taxation Implications of Participating in the RoPP

Private Practice Income:

The gross fees received from Medicare, health funds and any other party billed under the RoPP using the 100% model are deemed to be assessable income under Section 6-5 of the Income Tax Assessment Act 1997 (ITAA)

Deductibility of Amounts paid over to the Hospital:

An amount equal to the amount given over to the hospital under the 100% model of the RoPP is an allowable deduction under section 8-1 of the ITAA 1997. It is a condition of employment that all RoPP income is passed over to the hospital. As the amounts are required to be passed to the hospital, the deduction becomes a **work related expense** and directly connected with the activities which produce the assessable income

Effect of RoPP under 100% model on Individuals Income Tax positions:

The individual participating in 100% model RoPP is required to report both the Income and Expenditure in their personal Tax Returns. As both the income and related donation are offset against each other this means that there is NO EFFECT on your reportable income – as there is an equal and offsetting expense for any income derived.

Effect of RoPP on Government Benefits:

The following is general information supplied by the Family Assistance Office and the Child Support Agency and is current at the time of writing. All staff should seek independent tax advice in relation to the impact of private practice earnings on any Government benefits.

Generally speaking, for the purposes of determining Government Benefit entitlements income is calculated based on your reportable income, adjusted for such things as Reportable Fringe Benefits (salary packaging), other deductions and tax losses.

As RoPP income results in a net income of nil, RoPP income would not be included in the calculation of the Family Benefit Allowance.

Wages and Salary:

Full time medical specialist staff participating in the RoPP are entitled to receive a bonus based on the terms set out in the employment contract. (Sessional specialist medical staff may have the opportunity to receive a bonus depending on departmental arrangements). The Private Practice Bonus will **ONLY** be paid through the payroll system and is subject to all the normal tax rates applicable to an individual's personal income.

Why we encourage staff to participate in the RoPP

- RCH as a specialist tertiary hospital offers a range of services that are not funded or only partially funded from Department of Human Services grants
- Clinics run under the PPF model generate the revenue to cover the costs of running the clinic and allow the hospital to provide a greater range of clinics than could be provided using just DHS funding
- Generates additional revenue to assist with the purchase of capital and to cover the costs of operating a leading tertiary paediatric hospital.
- Enable doctors to be paid a bonus for the work they perform

Why we recommend use of the 100% model

- Simple
- Known tax position based on ATO advice in CR 2005/26
- Minimises the requirement for transactions between the hospital and the member participating in PPF to be subject to GST
- VMIA medical indemnity cover is provided for the hospital when the 100% model is used. Failure to use the model creates a significant exposure to medico legal risk

What the Hospital requires from Staff Participating in RoPP

- An individual's ABN. This is the individual's ABN, not company, partnership, family trust or any other legal vehicle. The RoPP arises out of the employment contract and must be reported on by the individual (Having an ABN does not generally impact on an individual's financial arrangements, other than the obligation to report and register where reportable income exceeds \$75k)
 - As the hospital is not privy to an individual's personal tax situation, all staff are required to have an ABN to show they understand the tax implications of what they are participating in
 - Where an individual's RoPP income and any other income not derived from employment (e.g. commercial property rental, farm income etc) exceeds \$75k, the staff member will also be required to register under the GST legislation
- Medicare Provider Number for each clinical area they participate in RoPP. Separate Medicare provider numbers ensure income is accurately coded to the right cost centre and staff member

Staff Obligations to the ATO when participating in RoPP

- Report the income and related work deduction on their Annual Income Tax return
- Where an individual is earning greater than \$75k per annum in RoPP or other reportable income, they will be **required to register for GST** and produce a quarterly BAS return. If the earnings are less than \$75k, the staff member will NOT have to register for GST and will NOT have to produce quarterly BAS reports

How does the Hospital Help?

- Produce monthly reports to PPF administrators to review and ensure transactions are coded accurately
- Provide a letter indicating where the income and expense need to be included in individuals tax return based on DHS advise
- Produce quarterly reports for the members of PPF's to use in their BAS return if required
- Crated a PPF model which allows the PPF Administrators of each fund to see and code the PPF income that belongs to their department – thus ensuring timely and accurate coding of PPF revenue

How to Complete a BAS Return

The quarterly report advises what income has been received by the hospital for that quarter. It is based on the assumption that staff are participating in the 100% model and that all income is GST Free (No medical services have been provided to other organisations or for services that are not GST Free).

The Total PPF revenue needs to be included as **PART** of the figure reported in the following fields in the BAS return

- **G1** - Total Revenue / Sales
- **G3** – Total GST Free Sales
- **G11** – Non Capital Purchases

Other income received by staff that is not payroll based, will also need to be included. Examples of such income would include revenue and expenditures from any business ventures (commercial property, farms etc) including income and expenditures derived from a Doctors medical practice run independently from the hospital. This is not an exhaustive list of what needs to be included.

***NOTE:** The Hospital is not a registered provider of taxation advice. The information above is general. Please refer to your personal tax accountant if you have any specific issues relating to your personal circumstance.*

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