

**Holmans Pty Ltd**97 Noosa Drive  
PO Box 2278  
Noosa Heads Qld 4567ABN 50 017 637 821  
ACN 108 110 667

P (07) 5430 7600

E [info@holmans.com.au](mailto:info@holmans.com.au)**Holmans Maroochydore Pty Ltd**Suite 8/61- 63 Primary School Court  
PO Box 6070  
Maroochydore BC Qld 4558ABN 47 129 427 452  
ACN 129 427 452

P (07) 5451 6888

E [infohm@holmans.com.au](mailto:infohm@holmans.com.au)[www.holmans.com.au](http://www.holmans.com.au)

## Q&A - Medical Industry

Holmans have put together a series of specific questions and issues that health practitioners regularly face.

### 1. Medical Practice – Should I use an incorporated structure or a medical partnership?

This is a common question faced by growing medical practices. Of course, there are advantages and disadvantages of both structures.

Generally speaking, a company offers some asset protection not offered by a medical partnership. As you are aware, health practitioners are at least partially personally liable for their actions, whether they operate through a company structure or a medical partnership. However, in a medical partnership you can also be found personally liable for the actions of other partners (medical practitioners) you are in business with. A medical company can offer some protection from the actions of other practitioners.

#### Some of the key advantages of a company include:

- No need to change the business structure when one doctor/medical practitioner leaves or joins.
- You can continue to use the same business ABN and TFN.
- Excess profits (income earned by non-owner practitioners) can be distributed by way of dividends to related parties (i.e. Spouse) and entities (i.e. Family Trust).
- Can offer some additional benefits through salary packaging.
- Practitioners can hold different interests in the business (eg. Doctor A holds 40%, Doctor B holds 25%, Doctor C holds 35%).
- May be more attractive to a prospective purchaser – ease of takeover.

#### Some of the key disadvantages of a medical company include:

- Companies need to comply with the Corporations Act and any legislation tacked on to the same, for example Work Choices Legislation. The government can effectively change the landscape in which you operate overnight.
- Compliance costs tend to be greater. However, the larger the practice, the smaller the difference.
- Care must be taken when structuring the method of remunerating the owners to ensure Payroll Tax is kept to a minimum (or avoided, if possible).
- Costly and complex to wind up.
- Shareholder agreements are required to formalise the relationship between the owners.

## **Q&A - Medical Industry**

Holmans can assist in guiding you through the above, so the most appropriate operating structure is chosen for your particular circumstances.

Of equal importance is whether a Service Entity is used or not (see question 2).

### **2. Service Entities – Should I and can I use one?**

Yes, you are able to use a Service Entity. A service entity is another entity (normally a trust or company) that employs all the administration staff (non-practitioners), purchases and operates all the equipment, leases premises and so-on.

The health practitioners are then charged a fee (including a mark-up) by the service entity for the use of those services. Often, this will result in a small profit being earned by the service entity which can then be split with related parties (i.e. Spouse) and related entities (i.e. Trusts and Companies).

The Australian Taxation Office has released strict guidelines on what level of profit is considered reasonable.

### **3. Personal Services Income (PSI) – Do I need to disclose all my health practitioner income in my tax return or can it remain in the company/trust?**

Generally speaking, all income earned by you as a health practitioner must be included in your individual income tax return. Essentially, any income earned from personal exertion or expertise must be included in the tax return of the person deriving that income. This often means there is no ability to split income of the doctor/health practitioner with their spouse. It does not matter whether you pass the “80/20” Rule.

If you are using the “80/20” rule as a means of justifying a split of income with your spouse, you may be penalised on review by the Australian Taxation Office. You should consult with a specialist health accountant such as Holmans.

### **4. Income Splitting – Can I split my income with my spouse?**

Holmans recommend you seek specific advice in relation to your particular circumstances, as

## **Q&A - Medical Industry**

each situation is different. Depending on your structure and the PSI restrictions outlined at Question 3, there may be a few limited options to legally split a small proportion of your income with your spouse.

Where you operate a Medical Practice and the business generates “business” net income after remunerating the medical practitioners, there are options for “splitting” income to related parties or entities.

**5. I’m a medical practitioner contracting to a medical practice – Should I use a Trust, Company, be a Sole Trader or an Employee?**

Each of the options above has its advantages and disadvantages. Importantly, it is not just about what you intend to do with your “employment” situation, but also what other entities and investments you have, your short term goals and the considerations of the medical practice hiring you.

For simplicity, you can’t go past an employee arrangement. You will have someone else deduct your tax (PAYG withholding) from your weekly gross fees, you will have employer superannuation paid on your behalf and you do not need to worry about GST. Unfortunately, in most cases, the employer does not want you to be an employee for a few main reasons – Workcover, superannuation obligations and payroll tax.

The other options must be considered on a case by case basis. A company or trust can offer a medical practitioner options such as salary packaging. However, they will be more expensive to run and maintain. Most subcontractor doctors in the past were forced to use companies, as this assisted the employer avoid payroll tax. This is no longer as effective as it used to be at avoiding payroll tax.

**6. Salary Packaging – Should I be salary packaging/sacrificing?**

Salary packaging can be a very effective way to minimise your tax. This is particularly relevant for hospital employees. This is because hospitals are exempt from Fringe Benefits Tax to certain limits and accordingly, can provide you with a benefit (i.e. car expenses) tax free. If you are a hospital employee, you will have received information about the same at the time you commenced your employment. You should seek advice in relation to your options. In most cases it is a good idea.

## **Q&A - Medical Industry**

For health practitioners who are not employed by a hospital, it can still be a very effective means of legally reducing your tax liability. Health practitioners frequently salary package motor vehicles through their own company or trust. This essentially provides the medical practitioner with a partial deduction for the motor vehicle, even though it might be 100% privately used.

There are other options available also. You should seek advice in relation to your personal situation.

### **7. What should I salary package?**

If you are a non-hospital employee, then motor vehicles, superannuation and laptop computers are common.

If you are a hospital employee, the range of options is much larger, including groceries, home loan repayments and memberships. Of course, you should seek advice from Holmans in relation to your particular circumstances.

### **8. GST – Are medical services GST Free?**

Yes, the provision of medical services is GST free. A medical service can best be described as anything covered by Medicare. There are other exemptions pertaining to medical services, but in most cases, if it is covered by Medicare, it is GST Free.

Often a health practitioner will subcontract to a larger medical practice and that medical practice remains the “owner” of the patient. In cases such as this, a health practitioner is deemed to be subcontracting employment services (not medical services) and accordingly, must charge GST on their time.

The medical practice will be GST free, as it is the one providing the service to the patient. The opposite arrangement can also occur. If you have any doubt on the services you are providing and whether they are subject to GST, you should seek advice from Holmans.

## Q&A - Medical Industry

### 9. Payroll Tax – Are sub-contractors included for payroll tax purposes?

In some cases, yes. Recent cases and rulings by the relevant state bodies has significantly impacted this area. In short, most state governments now think contractor health practitioners are caught by payroll tax. Medical practices that hire subcontractor doctors/health practitioners (whether through a company, trust or as a sole trader), may now need to include the subcontractor fee, excluding GST, in the calculation of Payroll Tax Wages.

Exemptions can apply where the sub-contractor doctor is through a placement agency or is under a specific type of employment contract, but must be assessed on a case by case basis.

Where the wages, superannuation and subcontractor fees (plus other eligible costs) exceed 1.3 million dollars (QLD limit), the business will be liable for Payroll Tax. For more advice, contact our office.

### HOLMANS – What makes us different?

Holmans are a proactive firm committed to excellence in customer service. Our points of difference include:

- Experience in your industry.
- A guarantee to return phone calls and emails within 24 hours.
- A proactive approach to reducing your tax liability and increasing your wealth. Holmans contact all our clients prior to 30 June to perform tax planning. After year end, your accountant is simply recording history and their ability to save tax is limited.
- A team of accountants, with different specialties, to ensure your specific requirements are met.
- Regular communication.
- Commitment to giving back. Holmans believe it is important to give back to the local community and through various fundraising events has raised thousands of dollars for local organisations and charities.

Holmans are confident we can save you tax and build your wealth. Contact Holmans to make an obligation free appointment to discuss your particular circumstances.

### **DISCLAIMER**

*It is possible that the above taxation advice may also constitute “financial product advice” within the meaning of the term in the Corporations Act 2001. We are therefore required to advise that we are not licensed to provide financial product advice and tax is only one of the matters that must be considered when making a decision on a financial product. You should consider taking advice from the holder of an Australian Financial Services Licence before making a decision on a financial product.*