

Payroll Tax and Contractors

Payroll tax is a tax on wages paid by a business/employer and is levied by the State government. Each of the States have different threshold amounts and payroll tax rates. In Victoria there is currently an annual threshold of \$550,000 and a payroll tax rate of 4.85% on all wages in excess of the threshold. This means that where a dental surgery pays wages of \$570,000, it will need to lodge a payroll tax return and pay payroll tax of \$970 (\$20,000 X 4.85%). The various State Payroll Tax Acts have different provisions and exemptions however from 2010 most of the State and Territory Acts have been harmonised so that the main provisions are similar if not identical. For the purposes of this article I will only be commenting on how the Payroll Tax Act applies to dental surgeries in Victoria.

The definition of wages which includes payments made to contractors includes the following;

1. All wages excluding apprentice and trainee wages.
2. Wages paid to company directors including director's fees and bonuses.
3. Salaries including annual leave, long service leave and sick leave payments.
4. Commissions and bonuses.
5. Superannuation paid on behalf of an employee including 9.5% superannuation guarantee and salary sacrifice contributions.
6. Fringe benefits (including the value of motor vehicles provided to employees, directors, spouses or associated persons).
7. Employment termination payments and accrued leave paid on termination.
8. Payments to contractors in certain circumstances.

Payroll tax is generally not payable on payments made to contractors who are genuinely offering their services to the public. This would normally be the case where the dental contractor is working at two or more surgeries and would generally be considered more aligned with being a locum than a permanent contractor/employee. Irrespective of any other circumstances if a dental contractor is only working at one dental surgery and is working there for two or more days per week then the full amount of their contracting payment will be subject to payroll tax. GST is excluded from contract payments with respect to calculating the payroll tax payable.

Payroll tax is payable on payments made to contractors if the work that they do generates dental income for the practice. Contracting dentists, hygienists and dental specialists all provide services which are part of the mainstream dental income generated by the practice. This is different to where a dental surgery engages a contractor to perform IT services or marketing services on an ongoing basis as neither of these services directly

generates income for the dental practice. Payments to contractors cannot be avoided by having that person form themselves into a family company or family trust.

There are three main exemptions to the payroll tax contracting provisions being ; the 180 day rule, the 90 day rule and no contract. The 180 day rule excludes payments to contractors where the services provided by that contractor are of a type ordinarily required by the business for less than 180 days. This would be the case where the dental surgery requires a dental surgeon two or three times per month to handle difficult cases/extractions etc. The 90 day rule applies where the individual contracting dentist provides services at the surgery on less than 90 occasions (days) during the financial year. Irrespective of whether the contracting dentist works one hour per day or a full day, each day that they attend the surgery is counted and if the total is less than 90 days then no amount of the payment is included but should it exceed 90 days then all payments are included. Finally, it is considered that there is no contract to engage a dentist where the surgery merely collects 100% of the fees generated on behalf of the (contracting) dentist and then charges a 60% service fee to cover the cost of services provided. Provided the service contract is appropriate and the parties are dealing with each other at arms' length then the surgery is not considered to have contracted the services of a dentist but rather the situation has been reversed such that the contractor is renting a chair from the business.

The State Revenue office has been particularly active and aggressive in pursuing payroll tax on contractors and not just in the dental industry. If you are subject to a payroll tax audit and your contracting dentists do not fit within one of the exemptions then you will be subject to payroll tax and there is no possibility of correcting the situation retrospectively. Dental practices that are most at risk are those which operate through a company (and not through a trust) as the State Revenue office may also consider that the company director/principal is underpaid and therefore avoiding payroll tax. As this is a complex area you should seek professional advice if you are subject to an audit or if you have concerns about how you are engaging your contracting dentists.

MW partners specialises in providing taxation advice to dental practices throughout Victoria. As an ADAVB member your first call or consultation with Albert Gigl is free of charge. To book an appointment call (03) 8825 5400. Our offices are conveniently located in the same building as the ADAVB -Level 3, 10 Yarra Street, South Yarra



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New fact sheet available

Fluoride toothpastes

As part of the new *Caring for your teeth* series, the ADAVB Oral Health Committee has produced a leaflet on fluoride toothpaste, which aims to reinforce the benefits of using fluoride toothpaste and reassure any concerned patients that it is safe and beneficial to their oral health.

The resources are designed to be given to patients, to educate them on various oral health topics. See the leaflet with this month's issue, and look out for them in future editions.

2015 Fee Survey Available

The 2015 Victorian fee survey is now available –
email ask@adavb.org
Quote your ADAVB Area Group code and your preferred mailing address.

Added Protection for Victoria's Waterways

Suppliers of dental cups, which capture amalgam, have agreed to only sell them through a mercury recycler.

Dentists will now buy the cups from CMA Ecocycle at a price that includes recycling costs. The agreement was achieved with the co-operation of the Department of the Environment, EPA, water authorities and municipal councils.

Federal Environment Minister Mr Greg Hung said the agreement was "a great example of industry self-regulating to achieve a very positive environment outcome".

ADAVB was instrumental in setting up the Dentists for Cleaner Water program which encouraged dentist to fit amalgam separators to protect Victoria's waterways.

<http://www.cmaecocycle.net/>

www.cmaecocycle.net/company-news/a-major-step-towards-a-cleaner-dental-industry/

M W P A R T N E R S C H A R T E R E D A C C O U N T A N T S

Are you still waiting for last year's tax return to be finalized?

MW Partners specialises in the taxation and accounting needs of individual dental practitioners and practice owners.

MW Partners can prepare your tax return **early** but get an extension of time to pay your tax so that you know in advance what your tax obligations are.

It's almost impossible to do tax planning for this year when you are still in the dark about last year.

Free Consultation

If you would like to discuss your financial or tax affairs, and are a member of the ADAVB, your first consultation is completely free of charge.

Please call Albert Gigl on (03) 8825 5400 for an appointment.

For your convenience, MW Partners is located on the same floor as the ADAVB at 10 Yarra Street, South Yarra.

"We balance your books so you have more time to balance your life."



ADAVB members receive prompt, individual attention from Managing Partner, Albert Gigl.

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