

2025 Winter Edition

TAX MATTERS

For Medical & Dental Practitioners

Contents:

- Can your SMSF own your practice premises?
- Is your income derived as an independent practitioner working from a clinic subject to Personal Services Income (PSI) rules?
- Choosing a structure to own an investment property
- Myth: A company structure can protect professionals against negligence claims
- It's now law: interest charged by the ATO is no longer tax deductible
- Tax planning strategies to implement by 30 June
- Increase in Superannuation Guarantee from 1 July 2025

CAN YOUR SELF-MANAGED SUPERANNUATION FUND OWN YOUR PRACTICE PREMISES?

The superannuation legislation does not preclude a practitioner's SMSF from owning the business premises from where the practitioner conducts their practice. However, to be compliant with the legislation, the following conditions must be satisfied on an ongoing basis:

- The practitioner must pay a fair market rental to the SMSF for the ongoing use of the premises;
- There must be a documented lease agreement between the practitioner and the trustee of the SMSF;
- The rental amount must actually be paid and not brought to account as an adjusting book entry;
- Rent must be paid in accordance with the terms of the lease;
- Ownership of the business premises by the SMSF must:
 - be in accordance with the SMSF's investment strategy, and
 - satisfy the 'sole purpose' test of solely providing retirement benefits to fund members.



We are an accounting firm specialising in providing accounting, taxation and advisory services to medical and dental professionals. As a result of our many years of experience, we have a comprehensive understanding of the needs, issues and concerns that are unique to medical and dental professionals.

Please refer to our website for further details.

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INCOME DERIVED AS AN INDEPENDENT PRACTITIONER WORKING FROM A CLINIC & PERSONAL SERVICES (PSI) RULES

The vast majority of practitioners working from medical and dental clinics do so on an independent contracting basis, often referred to as the Associateship Model. The arrangement is evidenced by way of the following:

- a documented contractual agreement between the practitioner and the clinic;
- both parties to the agreement acknowledging that the dealings between them are not those of an employer/employee;
- the practitioner appointing the clinic as their agent for the collection of patient fees;
- the clinic charging a service fee (inclusive of GST) to the practitioner for services provided. The service fee amount is generally based on a percentage of the practitioner's patient fees;
- the clinic deducting the service fee from the patient fees collected and paying the balance to the practitioner.

If you are a practitioner who has the above arrangements, from a taxation perspective, you will most likely be regarded as operating a Personal Service Business (PSB). This is due to the fact that you pass both:

- The '80% income' test - no one patient generates 80% of the practitioner's income for the year. This would generally be the case as most practitioners have multiple patients.
- The 'unrelated client' test - income is derived from two or more unrelated patients and the practitioner's services are provided to the public or section of the public.

Having your income treated as PSB means the PSI rules do not apply. This means you may be able to claim as a deduction some expenses such as wages and superannuation in respect of an associate (i.e. spouse) for non-principal work. Any wage payments to an associate must however be based on market rates and actual hours worked.

Being a practitioner operating a PSB, whether as a sole trader or via a company structure, does not, however, mean that you are able to split income with associates and family members. There are taxation rulings in place specifically preventing practitioners from income splitting with associates and family members. Any wages paid to associates must be for actual work performed.



CHOOSING A STRUCTURE TO OWN AN INVESTMENT PROPERTY

When purchasing an investment property, it is important to consider in whose name the property is to be owned. Should it be held in the name of the individual who is on the highest marginal tax rate, spouse name, joint names, in the name of an entity such as a trust or some other ownership structure? Issues to take into consideration to help determine the ownership issue include:

- whether the property will be negatively or positively geared
- the marginal tax rates of the individuals involved
- the likely capital gain to be realised on the sale of the property,
- whether asset protection is important, and
- the intended ownership period of the property



As practitioners carry the risk of being sued by patients, for asset protection reasons it is generally recommended that practitioners avoid holding assets in their own name. This is despite the fact the practitioner will most likely have professional indemnity insurance.

If the property is negatively geared, and will be for some years, the greatest tax benefit is achieved by having the property in the name of the individual who pays tax at the higher marginal tax rate. This would generally be the practitioner.

When the property is sold, any assessable capital gain will be included in the tax return of the individual(s) or entity in whose name the property is held. Where the property is held for more than 12 months before sale, a 50% discount will apply to the capital gain. Unfortunately, the 50% discount is not available where the property is owned by a company.

It will therefore very much depend on your own personal circumstances in which name the property should be purchased. Getting the ownership issue wrong can have significant tax implications.

MYTH – COMPANY STRUCTURES PROTECT AGAINST PROFESSIONAL NEGLIGENCE CLAIMS

It is a common myth that medical and dental practitioners can set up a legal entity (i.e. a company) as a form of protection against professional negligence claims. This is not the case. Simply closing down the entity or ensuring it has no assets, does not prevent a patient from suing you personally.

It is therefore vital that practitioners maintain an appropriate level of professional indemnity insurance, regardless of their business structure. As the practitioner is personally liable, professional indemnity insurance is essential.



Increase in Superannuation Guarantee from 1 July 2025

From 1 July 2025, there will be a change in the Superannuation Guarantee (SG) rate for employers' compulsory superannuation contributions. The current rate of 11.5% will increase to 12%, where it is scheduled to stay. The 12% rate will need to be applied for all salary and wages paid on or after 1 July, even if some or all of the pay period it relates to is before 1 July.



We can help! Contact us on (02) 6239 5011 if you have queries about anything in this newsletter

IT'S NOW LAW - INTEREST CHARGED BY THE ATO IS NO LONGER TAX DEDUCTIBLE

With effect from 1 July 2025, following the passing of amending legislation in late March 2025, interest charged by the ATO will no longer be tax deductible. The measure will mean taxpayers will no longer be able to claim a deduction for general interest charges (GIC) and shortfall interest charges (SIC). Currently the GIC and SIC rates (June 2025 quarter) are 11.17% and 7.17% respectively.

GIC is payable when a taxpayer does not pay tax on time. The tax could be income tax, PAYG Tax Instalments, BAS tax etc.

SIC is payable in relation to errors made in a tax return that result in the underpayment of tax.

Any GIC or SIC incurred prior to 1 July 2025 is not impacted and will continue to be deductible for the 2024-2025 and earlier years.

The measure will certainly act as a disincentive to use the ATO as a lending institution.

The right to request a remission of any GIC or SIC imposed continues. The ATO commissioner has discretion to remit all or some of the GIC/SIC where, given the circumstances, it is considered fair and reasonable to do so.



POSSIBLE TAX PLANNING STRATEGIES TO IMPLEMENT BY 30 JUNE

Individuals

Superannuation Contributions

Maximise concessional contributions by making deductible personal superannuation contributions. The concessional contribution cap for the 2024-2025 financial year is \$30,000. Individuals may need to satisfy a work test for the financial year if they are between 67-74 years of age to claim a personal superannuation deduction. The payments do need to be received by the superannuation fund prior to 30 June for the super contribution to be deductible in the current tax year. To claim a tax deduction for personal super contributions, you will need to lodge a notice of intent to claim a tax deduction with your superannuation fund and it needs to be acknowledged. This notice of acknowledgement needs to be received by the earlier of:

- by the time your tax return is lodged for the income year in which the contribution is made; and
- the end of the following year (i.e. 30 June).

Carry-Forward Super Contributions

Carry-forward contributions allow individuals to use any of their unused concessional contributions caps on a rolling basis for five years, after which they expire. The rules state that where an individual's Total Superannuation Balance is less than \$500,000 as at 30th June of the previous financial year, they may be able to contribute more than the standard concessional contributions cap (\$30,000) by utilising the unused contributions cap from prior years.

Prepayments

Subject to cashflow, you can consider prepaying interest expenses on investments for a period of up to 12 months in advance to claim a deduction in the 2025 financial year.

Capital Gains Tax (CGT) Planning

If you're planning to dispose of any assets, consider the timing of the transaction to optimise the tax consequences. Evaluate the potential benefits of offsetting capital gains with capital losses and utilising the various CGT concessions available, such as the 50% discount for assets held longer than 12 months.

Businesses

\$20,000 Instant Asset Write Off – Small Business Entities

For a small business entity to access the instant asset write-off threshold of \$20,000, the following conditions need to be satisfied:

- The entity must carry on a business under general principles in the 2025 income year;
- It must have aggregated annual turnover of less than \$10m – this can be based on current year or previous year figures;
- It must choose to apply the simplified depreciation rules for the 2025 income year;
- The asset must have a cost of less than \$20,000 (net of GST); and
- The asset must be first used, or installed ready for use, for a taxable purpose between 1 July 2024 and 30 June 2025.

Assets valued at \$20,000 or more (which cannot be immediately deducted) can continue to be placed into the small business simplified depreciation pool and depreciated at 15% in the first income year and 30% each income year after that.

Prepayments

Prepaying deductible expenses, such as insurance premiums, rent and subscriptions, can bring forward deductions into the current financial year. If paid by 30 June, up to 12 months of prepaid expenses can be deducted in the current tax year.

Bring Forward Pending Expenses

Expenses are only deductible when incurred, i.e. there must be a presently existing liability to pay the expense. It may be appropriate to follow up with contractors and suppliers for all invoices prior to 30 June 2025 to ensure they are recorded in your accounting software so they can be deducted in the current tax year.

30 June is the end of the financial year

If you have any questions on the topics covered, please contact us by email or call our office on (02) 6239 5011:

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