

 **HotDoc** | CPD WEBINAR

Navigating the complexities of payroll tax for medical practices




PRESENTED BY
**Sarah
Bartholomeusz**

Founder & Principal of You
Legal



**Tue 26 Sept
11:30am AEST**



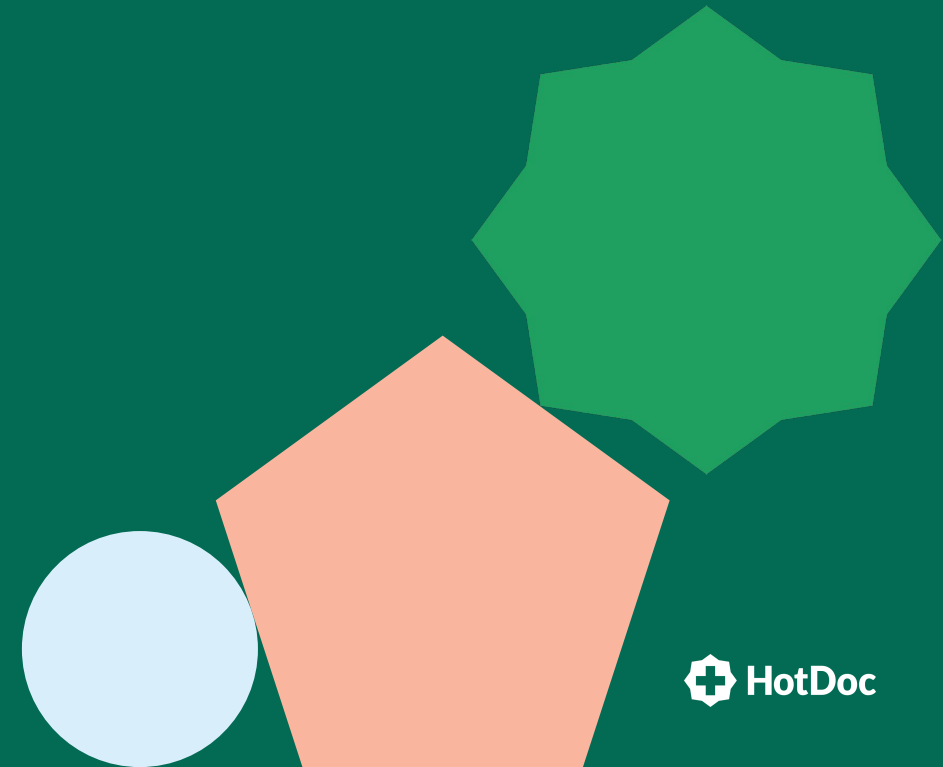


In the spirit of reconciliation, HotDoc acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community.

We pay our respect to their elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

Before we begin:

- A recording of this session will be emailed to you later where you can also access the Related Resources section
- Use the Ask a Question widget throughout the session
- You can expand and move around the console to your personal preference





Navigating the complexities of payroll tax for medical practices

with Sarah Bartholomeusz

Disclaimer: This presentation is for general guidance only. Legal advice should be taken in relation to taking actions on specific issues.

In the next 60 minutes you will learn:

- ▶ Why are we here?
- ▶ Is your practice impacted?
- ▶ The different attitudes of different state and territory governments
- ▶ Hot Docs Role





Who Am I?

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. The shapes are primarily triangles and polygons, creating a dynamic, layered effect. The central text is positioned in the white space between these green elements.

Why are we here?

Step 1 - Understand the Legal Framework

Understand the Legal Framework

It is not straight forward.

Employment law: Fair Work Act,
Awards, Tax Administration Act,
Superannuation Guarantee

Independent contractors: Sham
Contracting

Federal laws, State Laws and the
common law (or judge made law) make
it complex.



What is Payroll Tax? It's not a new tax!

State or territory tax

The state or territory that employees are located in collects the tax

Businesses who are liable to pay payroll tax need to be registered

Payroll tax rates and thresholds vary between the states and territories

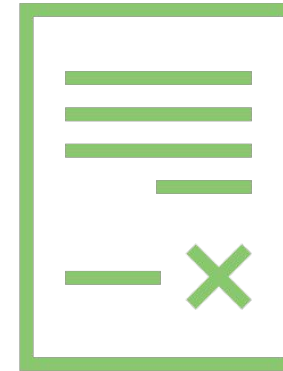


An indicative table of Australian payroll tax rates

State or territory	Threshold	Rate
ACT	\$2,000,000	6.85%
Queensland	\$1,300,000	4.75%
New South Wales	\$1,200,000	5.45%
Victoria	\$700,000	4.85%
Tasmania	\$1,250,000	4.00%
South Australia	\$1,500,000	4.95%
Western Australia	\$1,000,000	5.50%
Northern Territory	\$1,500,000	5.50%

How Doctors are Usually Engaged

- ▶ Part Time or Casual Employee
(GP Registrars must be employees)
- ▶ Independent Contractor
- ▶ Independent Business Owner with the accredited business providing services to them (as a “co-working space”)



Commissioner of State Revenue (Vic) v The Optical Superstore Pty Ltd [2019] VSCA 197

► Features of the Contract:

- Optometrists can work at any location
- Optometrist was paid a "Consultation Fee" which was the return of Medicare fees less an occupancy fee for the use of the rooms, plus a hourly rate that was independent of the number of patients seen
- Optometrists to ensure that services were being provided during retail hours at agreed times
- Services must be seen to be provided by Optical Superstore



This case involved facts unlike those implemented by most medical practice owners.

Thomas and Naaz Pty Ltd v Chief Commissioner of State Revenue [2021] NSWCATAD 259

Facts

Dr. Thomas (runs three practices in Sydney) was found to owe the state almost \$800,000 in retrospective payroll taxes because despite the doctor contractors holding themselves out as individual sole traders, co-located on the same premises, their income was still deemed a relevant contract & how the money flowed to their accounts was subject to payroll tax.

How come?

Dr. Thomas was 'billing patient fees and charging a flat 30% service fee on everything the doctors had billed'. The money flow seemed to be the key indicator the Court took into account.



Legal Issues

- ▶ In this case, the Court considered whether the 70% of Medicare claim that was distributed by the medical centre to a doctor constituted wages and, accordingly, subject to payroll tax.
- ▶ The fundamental issues in assessing whether the payments could be deemed as wages were:
 - *“whether the Agreements between the centre and each doctor could be deemed as “relevant contracts” pursuant to the Payroll Tax Act; and*
 - *if this was the case, whether the Payments were “amounts paid or payable during a financial year for or in relation to the person of work related to the [Agreement] for the purposes of section 35 of the Pay Roll Tax Act.”*



Outcome

- ▶ The Court affirmed the decision of *The Optical Superstore Pty Ltd as Trustee for OS Management S Trust & Ors v Commissioner of State Revenue* and the payments made to the doctors were classified as wages.
- ▶ Subsequently, this meant that the payments fell within the parameters of the Payroll Tax Act 2007 and the medical centre was liable for \$795,292.95 in payroll tax.



Appeal and Decision

- ▶ Dr Thomas appealed the original decision on 7 grounds including:
 - it should not have found the doctors' payments to be wages;
 - it should not have found doctors provided services to the practice, but only to patients; and
 - its contracts were not “relevant” under payroll tax law.
- ▶ Ultimately the Appeal was rejected on all grounds



The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. The shapes are primarily triangles and polygons, creating a dynamic, layered effect. The text is centered in a clean, sans-serif font.

Is your practice
impacted?

What does this mean for Medical Centres?

- ▶ Operating GP practices and contractors are now more open to a large retrospective payroll tax bill (relevant to those doctors who have always been thought of as “tenants” or “contractors” not employees)
- ▶ The payroll tax legislation is different in each State and Territory, but largely harmonised.



Issues Identified - Contract with Doctors

- ▶ Practice owners now have the opportunity to review their arrangements to ensure that their Agreement, processes and procedures are in place that accurately document the underlying relationship.
- ▶ Doctors should not be directed in any way by the medical centre in relation to the conduct of their own independent medical practice.



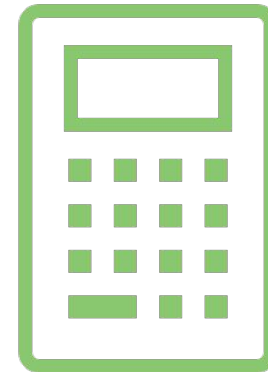
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Relevant Considerations

Where are we now?

State Revenue Office Rulings and Attitudes

- **NSW** - Ruling (PTA-041)
- **VIC** - Ruling (PTA-041)
- **QLD** - Ruling and Amnesty (til 10/11)
- **SA** - Ruling and Amnesty (til 30/9)
- **WA** - WA Govt have said not pursuing
- **ACT** - exclude practices in exchange for 65% bulk billing of all consultations, effective 1 Sept.
- **TAS & NT** - no relevant announcements made

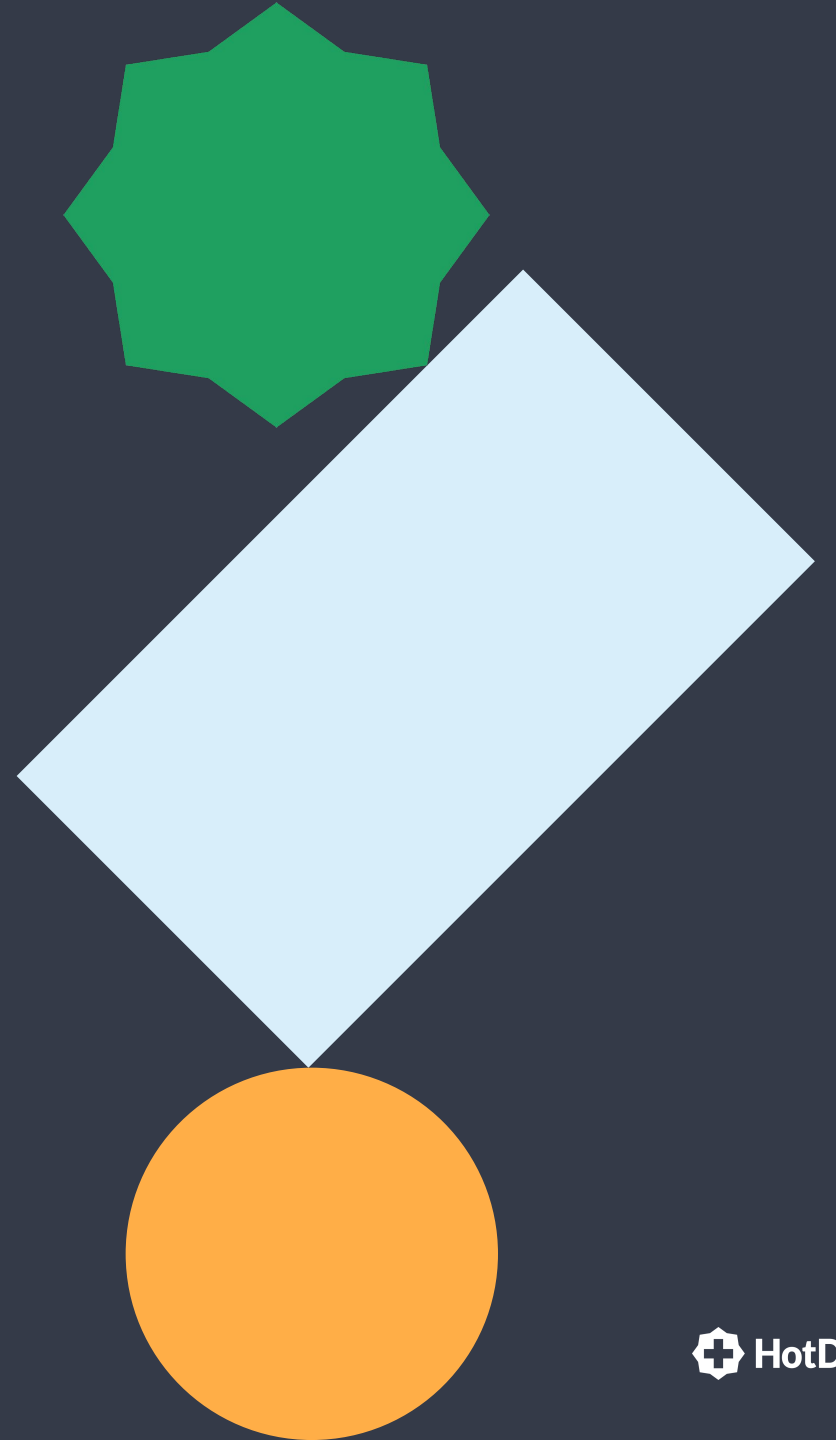


So, what's next?



- ▶ Want to have a chat? You are welcome to book a free call with me to discuss your position.
- ▶ <https://youlegal.com.au/book-a-call-with-sarah>

How might
HotDoc help?



Direct to Practitioner Payouts

Send payment requests straight to your doctors

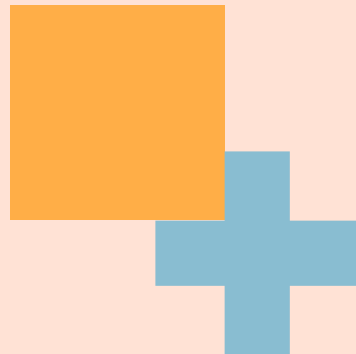
Practitioner Accounts

Set up practitioner accounts to have funds from consultations paid directly. Funds for unlinked and archived practitioners will be paid to the practice account.

HotDoc Practitioner	Visible on Bookings	Stripe Account	Funds Paid To	
Armida Farrell	● Yes	Not Setup	General Family Practice Centre	Setup
Bertram Goodwin	● Yes	Not Setup	General Family Practice Centre	Setup
Dr Fredrica Findacure	● Yes	Not Setup	General Family Practice Centre	Setup
Dr Ivor Cure	● Yes	Not Setup	General Family Practice Centre	Setup
Dr Michaela Quinn	● Yes	Not Setup	General Family Practice Centre	Setup
Dr Nadine Nurse	● Yes	Not Setup	General Family Practice Centre	Setup



HotDoc Payments allows you to configure your setup so that individual practitioners can receive payments directly into their own account.



View your Doctor Schedule

Allow your doctors to operate more independently

- Doctors can conveniently use HotDoc to view their upcoming schedules and appointments using Practitioner view logged into the HotDoc Sidebar
- Doctors can start telehealth video consultations through the Sidebar



HotDoc Logout Leave feedback

Daily Appointments

Today 09 Jun 2021

Dr Annie Allied

4:30PM - 5:30PM
Jinny Potter 02/02/2000
Fillings and Restorations

5pm

5:30PM - 6:00PM
Harry Potte 01/01/2000
General Check Up and Clean
Gums are really sensitive

6pm

6:05PM - 6:15PM
Hermione Granger 02/04/1990
New Patient Appointment

6:20PM - 6:35PM
Jane Smith 01/01/2000
Telehealth

Start


Arrived Seen

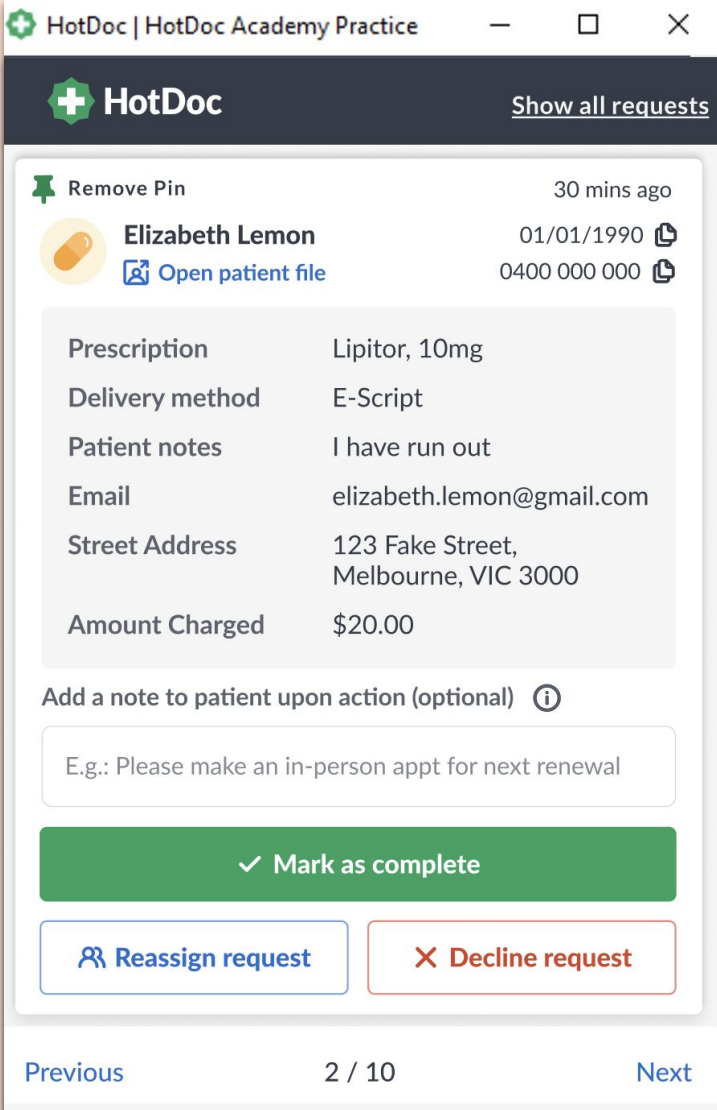
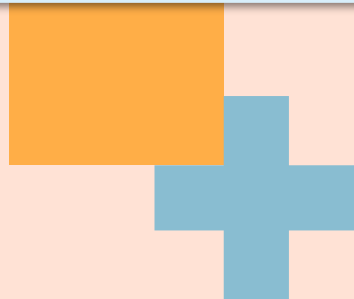
6:40PM - 6:55PM
Jane Smith
Telehealth

Start

Send repeats direct to your Doctors


Allow your doctors to operate more independently




 Use features like HotDoc Repeats to Sidebar to send basic Script and Referral requests directly to your GP's Sidebar for them to accept or decline within seconds - while getting paid.




HotDoc | HotDoc Academy Practice

HotDoc [Show all requests](#)


 Remove Pin 30 mins ago



 **Elizabeth Lemon** 01/01/1990 
[Open patient file](#) 0400 000 000 

Prescription	Lipitor, 10mg
Delivery method	E-Script
Patient notes	I have run out
Email	elizabeth.lemon@gmail.com
Street Address	123 Fake Street, Melbourne, VIC 3000
Amount Charged	\$20.00

Add a note to patient upon action (optional) 

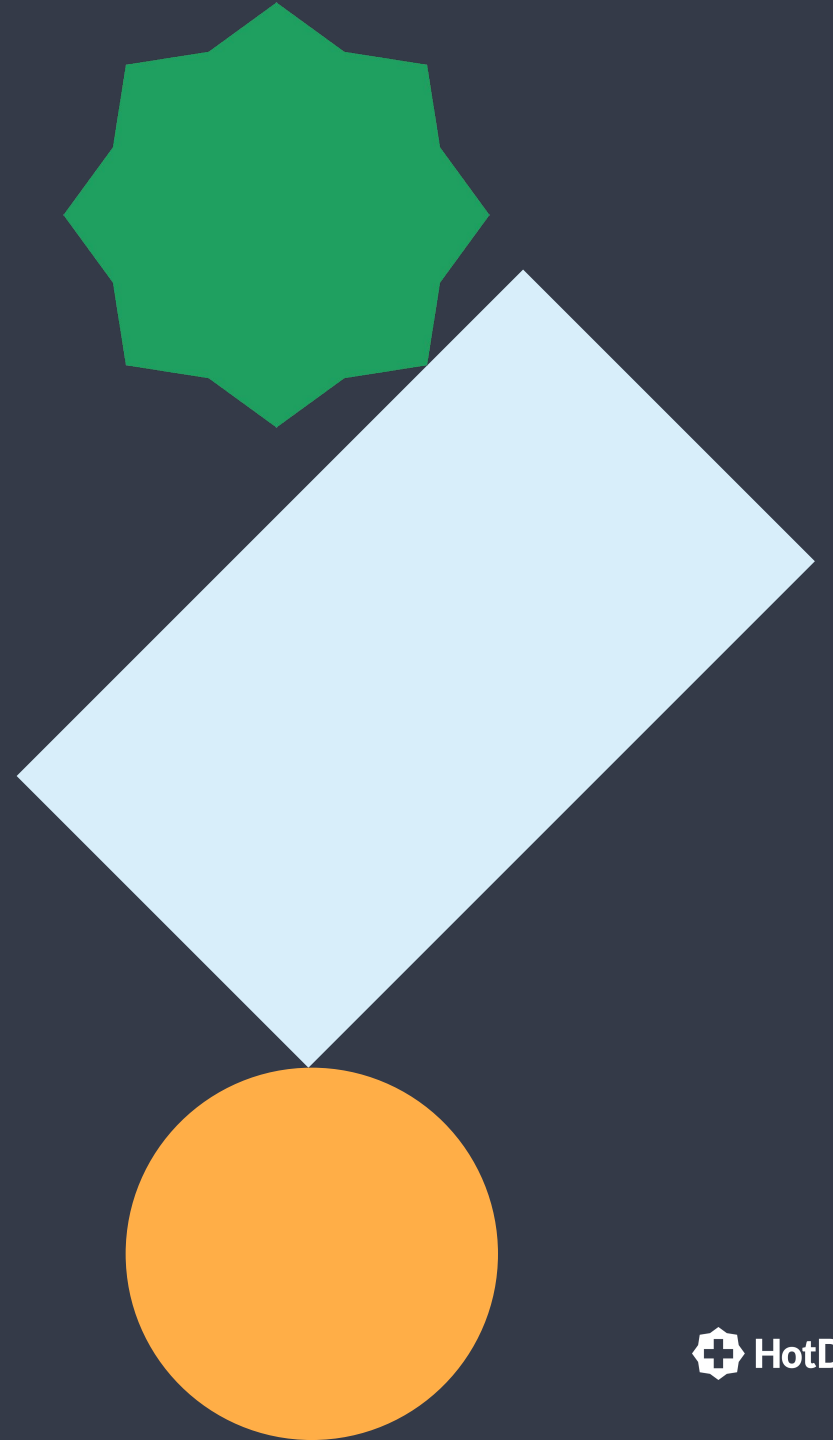
E.g.: Please make an in-person appt for next renewal

 Mark as complete

 Reassign request  Decline request

Previous 2 / 10 Next

Questions



Past CPD Webinars

Watch our past CPD webinars from the link in Related Content



Chronic Disease Support & Medicare Item 10997



Successful Change Management: How to Master the Move to Mixed Billing



Cybersecurity 101: Change Your Culture, Not Your Budget



JOIN THE CONVERSATION



Our community has over 4,600 healthcare professionals to share ideas, discuss hot topics and collaborate with.

Join here <https://www.facebook.com/groups/fortheloveofhealthcare>



Thanks for watching!

Find out more about HotDoc here:
practices.hotdoc.com.au