

17 November 2022



[www.amaq.com.au](http://www.amaq.com.au)

88 L'Estrange Terrace  
Kelvin Grove 4059

PO Box 123  
Red Hill 4059

Ph: (07) 3872 2222  
Fax: (07) 3856 4727

[amaq@amaq.com.au](mailto:amaq@amaq.com.au)

ACN: 009 660 280  
ABN: 17 009 660 280

The Hon Cameron Dick MP  
Queensland Treasurer and Minister for Trade and Investment  
1 William Street  
BRISBANE QLD 4000

Mr Mark Jackson  
Commissioner of State Revenue  
Queensland Revenue Office  
1 William Street  
BRISBANE QLD 4000

Via email: [REDACTED]

Dear Treasurer and Commissioner

Members of AMA Queensland continue to voice their significant concerns about the threat payroll tax poses to the viability of general practice in our state. Please find attached an AMA Queensland Briefing Note that outlines the key issues and impacts application of the tax will have on both patients and clinics.

AMA Queensland notes statements made by the Premier, Treasurer and Minister for Health and Ambulance Services during Question Time in the Queensland Parliament on 9 November 2022 as follows:

- The Premier stated “medical practices are subject to payroll tax in the same way today as they were through the entirety of the Newman government...”
- The Health Minister stated “that the tax that exists has been applied consistently – the same way – since 2008.”
- The Treasurer stated:
  - “The Queensland Revenue Office has reviewed a New South Wales court decision that has been raised by the AMA. Based on that review, the Queensland Revenue Office – not me as the Treasurer – has not identified any aspect that it considers changes the scope, practice or approach to payroll tax in Queensland”;
  - “Medical practices are subject to the same payroll tax provisions in the same way they were through the entirety of the Newman government”; and
  - “The decision in New South Wales does not change the practice, but of course the revenue office will do its duty as it is required to”.

Given these statements, AMA Queensland requests the QRO provide the following information:

1. The number of general practices audited for payroll tax liability each year since 2008.
2. The number of payroll tax liability assessments issued to general practices each year since 2008.
3. The value range of payroll tax liability assessments (i.e. the dollar amount) issued to general practices each year since 2008, including the range of any penalty amounts imposed (as a percentage and dollar value).

The QRO wrote to AMA Queensland on 7 January 2022 and stated:

*As the relevant contract provisions in the Payroll Tax Act are harmonised with the NSW provisions considered by the NSW Civil and Administrative Tribunal in the NSW decision, the principles from that decision may apply when determining the Queensland payroll tax consequences of similar arrangements.*

AMA Queensland requests the QRO and Treasurer explain this statement given it appears to contradict the statements made by the Premier, Health Minister and Treasurer in Question Time.

In its letter, the QRO also states the following but does not go on to refute that the QRO is applying the NSW decision:

*I note in your letter that you have stated the Queensland Revenue Office (QRO) is applying this decision and you have expressed concern and you have expressed concern about the payroll tax exposure for administrative service entities of your members as a result of this decision.*

AMA Queensland requests the QRO explain this statement and the reasons it did not refute that it is applying the NSW Civil and Administrative Tribunal decision in *Thomas and Naaz Pty Ltd v Chief Commissioner of State Revenue* [2022] NSWCATAP 220 in its letter to AMA Queensland.

During Estimates on 16 July 2021, Mr Janetzki asked the (former) Office of State Revenue's Revenue Commissioner about the agency's compliance activities and was advised that the OSR had 'been increasing our compliance enforcement work recently' and 'have also boosted our compliance work, in particular across the revenue lines where there was opportunity to look for additional revenue out of the existing system. That has been happening progressively over the last six months', including employing an additional 94 FTE compliance officers.

Since the statements made by the Premier, Health Minister and Treasurer in Question Time appear to directly contradict these statements by the former agency responsible for payroll tax compliance, AMA Queensland requests the Treasurer justify the statements made by himself, the Premier and Health Minister.

Finally, recent media reports cite the Treasurer as advising that:

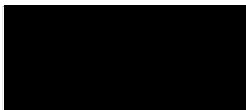
- of 71 businesses found to have payroll tax issues since July 2022, four (4) were medical practices; and
- of 195 businesses found to have payroll tax issues in 2021, 18 were medical practices.

AMA Queensland estimates that general practices account for just 0.3% of all small businesses in Queensland yet, on this reported advice by the Treasurer, general practices account for 5.6% (since July this year) and 9.2% (in 2021) of all businesses found to have payroll tax issues. This means general practices are up to 30.7 times more often found in breach of payroll tax laws than would be expected based on their proportion of all small businesses in Queensland.

AMA Queensland asks the Treasurer explain this overrepresentation and the statements made in Question Time that the QRO's payroll tax compliance activities, as they relate to general practice, have not changed since 2008.


I would welcome an opportunity to meet with you to discuss these issues further.

Yours sincerely



Dr Brett Dale  
**Chief Executive Officer**  
**AMA Queensland**

*Enc: AMA Queensland Payroll Tax Briefing Note*

cc: The Hon Annastacia Palaszczuk MP, Queensland Premier –   
cc: The Hon Yvette D'Ath MP, Minister for Health and Ambulance Services – 



## AMA Queensland Briefing Note:

# Payroll Tax and General Practice

### Why is payroll tax a threat to general practice?

#### ▶ GPs are in crisis.

- ◆ Chronic workforce shortages; immigration lag in med-long term; failure of MBS rebates and funding; declining income relative to other specialists; fewer graduates choosing general practice; pressure as COVID-19 frontline responders has caused stress, fatigue and burnout.
- ◆ Patients are suffering higher fees, longer wait-times and increasing ED presentations.
- ◆ ~50% of medical graduates used to go into general practice. This year it was just 16%.
- ◆ Even less GPs want to own practices – payroll tax is a further disincentive.

#### ▶ Payroll tax will burden general practice with yet another financial liability.

- ◆ Payroll tax liability, especially enforced retrospectively, compels VA or liquidation.
- ◆ Practices don't have million-dollar 'war chests' to pay assessments and penalties.
- ◆ Practices in all locations will be hit hard, including rural and regional communities.
- ◆ It's estimated over 81% (1142 of ~1411) of general practices affected (all with >3 FTE GPs).
- ◆ This will also see thousands of GPs unemployed without practices to work in.
- ◆ Practices that survive will have no choice but to pass the tax (retrospective and future) onto patients in full, further reducing health access for our most vulnerable Queenslanders.
- ◆ Failure of general practices will cause immediate increased ED presentations.

#### ▶ Queensland may be left behind.

- ◆ Other states are considering payroll tax exemptions for general practice.
  - NSW: currently under consideration by the NSW Government
- ◆ While laws are intended to harmonise across jurisdictions, if Queensland does not follow suit, our clinics will be at a competitive disadvantage, GPs will move interstate and practices will fold.
  - This effect would be immediate in border areas such as the Gold Coast, Goondiwindi, Stanthorpe, Warwick, Texas and Mungindi which have significant vulnerable populations including Indigenous and aging Queenslanders.

#### ▶ Unintended consequences will kill practice viability.

- ◆ Payroll tax liability may trigger other financial obligations such as leave entitlements, WorkCover, insurance and superannuation.
- ◆ This will make GP-owned practices unviable since they do not pay these liabilities now.
- ◆ The corporate 'service entity' model will fail, noting Tristar Medical Group's recent collapse.
- ◆ The vast majority of patients will not be able to afford the inevitable increase in fees.



## The legislation and QRO's new approach

### ▶ Poor regulatory certainty.

- ◆ The Act is ambiguous with liability necessarily determined on a case-by-case basis.
- ◆ QRO has failed to give regulatory certainty or clarify the Act's operation and application.
- ◆ Practices cannot structure their business with confidence because of this uncertainty.

### ▶ QRO is unfairly targeting GP clinics, ignoring fundamental legal principles and Strategic Plan.

- ◆ **Fairness and consistency:**
  - QRO is taking a new, aggressive approach to payroll tax liability, unfairly targeting general practice since the NSW CAT *Thomas and Naas* decision.
  - This includes targeting practices previously advised they were compliant.
- ◆ **Rationality and transparency:** no reasons for decision: QRO has refused to provide sufficient reasons for its decisions where it has issued a notice of non-compliance and bill for liability.
- ◆ **Accountability:** QRO refuses to meet with practices to explain and justify its decisions.
- ◆ **Retrospective application:** Practices have incurred retrospective liability (to 5 years).
- ◆ QRO's approach contradicts Treasury's Strategic Plan to 'incentivise private sector investment' and 'ensure well-researched policies and strategies that further... sustainability'.

## Why is an exemption needed?

### ▶ Public and 'charitable institution' hospitals are exempt.

- ◆ This is anti-competitive: it disadvantages all practices, whether operating service agreement or employee models, and increases costs and patient fees.
- ◆ Bulk-billing will disappear and many patients will go to ED instead, overwhelming hospitals.

### ▶ GPs are clients of practices, not 'contractors' or 'employees'.

- ◆ The traditional arrangement between GPs and practices has been via service agreements.
  - The practice provides a service being the premises, plant and equipment, billing services, reception, and administrative and allied health staff.
  - The practice does not pay GPs wages, superannuation, leave or other entitlements or benefits, or provide professional development and training.
- ◆ QRO has deemed payments to GPs to be taxable wages for payroll tax purposes but most GPs resemble clients or customers in all other respects.

### ▶ Voluntary Patient Enrolment (VPE) will necessitate an exemption.

- ◆ The Australian Government is fundamentally restructuring Australia's health system. Voluntary Patient Enrolment will be a key component.
  - VPE involves patients registering with a practice to improve continuity of care and enable alternative funding models to the current MBS rebate system.
- ◆ Since VPE eligibility requires patients to enrol with *practices* and *not GPs*, the patients will become customers of the practice, not of their GP as is currently the case.
- ◆ This is highly likely to mean general practice business structures that currently ensure GPs are not employees for payroll tax purposes will no longer function.
- ◆ Exemption will be the only way practices can escape payroll tax and survive under VPE.



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W [qld.ama.com.au](http://qld.ama.com.au)