



## Welcome

We were recently invited by the AAPM NSW to take part in their two day workshop and from the responses we have received the delegates took a liking to our KPI session. Thanks to all for the feedback.

In this edition we discuss The Ruling which states that a medical practice company should have no taxable income at year end, and therefore no Retained Profits to carry forward. We also look at salary packaging for meal entertainment and much more.

Our subscription rate to this newsletter continues to grow, we welcome all new readers to this edition. Previous editions can be found at [www.cutcher.com.au](http://www.cutcher.com.au).

**Jarrod Bramble**  
PARTNER

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# Workshop for Practice Managers

*Cutcher & Neale were invited by the Australian Association of Practice Managers (AAPM) to present at the NSW Branch Workshop titled "Achieving the Life You Dream: Controlling Your Work Life Balance" which was held at Citigate Central Hotel in September of this year.*

Jarrod Bramble, Partner of Cutcher & Neale's Medical Practitioner Division, Phillip Smith, Partner of Investment Services Division, Michael Graham, Director of Business Software & System Solutions, Nicole Young and Belinda Williams, Client Service Managers represented the firm at the two day workshop. The workshop showcased the latest in products and services for healthcare practices to the delegates of over 100 medical practices from all over Australia.

Michael Graham opened the 2008 program with a practical hands-on half day master class on Financial Planning and Reporting and Setting Key Performance Indicators (KPI's). Michael gave the delegates skills to equip them with the tools to implement a successful Financial Planning and Reporting System in their practice using the eight (8) key steps:

- Step 1** Identify
- Step 2** Improve & Restructure
- Step 3** Success Factors
- Step 4** Budget
- Step 5** Verify
- Step 6** KPI Report
- Step 7** Communication
- Step 8** Improve



(Above) Friday session at the AAPM workshop.

The workshop was a success with attendees finding it a **"very informative afternoon with a pleasant friendly atmosphere that encourages me to improve the reporting and budgeting in our practice"**.

Each delegate who attended Friday's session received a 30 page workbook including a free USB memory stick which contained a copy of the Medical KPI Template.

Continuing on from Friday's success, Jarrod Bramble together with Phillip Smith presented on Tax Effective Practice Structuring. Due to requests from the delegates who attended Saturday's presentation, we are pleased to inform you that this presentation will shortly become available on our website for viewing. Stay tuned!

Cutcher & Neale is proud to be associated with the event and the AAPM NSW and look forward to attending again in 2009.

If you would like any information or assistance in this area, please phone Cutcher & Neale on 02 4928 8500.



# Are retained profits correct on your balance sheet?

**In recent times, Cutcher & Neale have been appointed as the new accountant for a number of medical companies that incorrectly have Retained Profits on their balance sheet. This is a disturbing discovery, as it is considered a blatant disregard for Income Tax Ruling 2503 (IT2503) – ‘Incorporation of Medical and Other Professional Practices.**

The Tax Ruling, published by the Australian Taxation Office (ATO), covers companies formed by medical practitioners’ to conduct their professional activities through an incorporated body.

The Ruling states that a medical practice company should have no taxable income at year end, and therefore no Retained Profits to carry forward. If at year end, income does not equal expenses, the difference should be paid out to the professional person by means of a bonus.

The retention of profits is generally not acceptable; however the ATO understands that it is not always possible to achieve a nil profits result within the confines of a year. If this is the case, the company should then distribute all of its taxable income to the doctor by way of a franked dividend in the following year.

This Ruling is based on the fact that although the medical practitioner is incorporated, the doctor still retains personal accountability for medical services provided and any remaining income should be allocated as such. The personal nature of the services rendered by the medical practitioners will not differ in incorporation from that extended to them should they practice in partnership or as a sole trader.

Any medical company that does not make a bona fide attempt to reach a position of nil profits is held to be in breach of IT2503.

However, some medical practices fall outside of the scope of IT2503. In determining which businesses are exempt from the above nil profit requirements, it is necessary to consider whether the income of the company is from the personal services of the practitioners or from the business structure. Income Tax Ruling 2639 ‘Personal Services Income’ is used to determine which medical companies fall under the scope of IT2503.

“Income of personal services” is income that the individual taxpayer (doctor) earns predominantly as direct reward for personal efforts by the provision of services or exercise of skills.

On the other hand, “Income from the business structure” is income other than that earned from personal services. It is income derived from use of income producing assets (technical equipment) or other employees (medical practitioners employed), therefore not solely earned by the principal doctor’s skills and judgments.

The ATO sets the following as the general rule of thumb for medical companies:

- If the practice company has at least as many non-principal practitioners (medical employees) as principal practitioners (medical owners/directors), then the income is considered to be derived from the business structure, and IT2503 does not apply.
- If the practice company has less non-principal practitioners than principal practitioners, then the income is considered to be derived from personal services. In most cases, this means IT2503 will apply.

Note that administrative staffs are not included in the above test, as deriving medical fee income is not their primary function. Also, if income is derived by the use of expensive medical equipment (for example radiology and pathology) then the Ruling IT2503 may not necessarily apply.

If you feel that your medical practice may fall under the scope of Income Tax Ruling 2503, and you may be currently breaching the nil profits rule, please contact Cutcher & Neale to discuss your options.

# Have you considered salary packaging meal entertainment?



## What is meal entertainment?

From an employer's perspective, providing meal entertainment means:

- providing entertainment by way of food or drink;
- providing accommodation or travel connected with such entertainment; or
- paying or reimbursing expenses incurred by an employee for the above.

Meal entertainment provided by PBIs, public hospitals, non-profit hospitals and public ambulance services to employees is exempt from FBT. This exemption only applies to meal entertainment and not to recreation.

## What is recreation?

Recreation includes amusement, sport and similar leisure time activities, for example, a game of golf, theatre or movie tickets, a joy flight or a harbour cruise.

## Are you employed by NSW Health?

On 3 October 2007, NSW Health added Meal Entertainment to the list of approved benefits for salary packaging by NSW Health employees who come under the \$17,000 FBT exemption cap criteria and meet NSW Health salary packaging eligibility criteria.

For these employees the amount is not included in the employee's \$17,000 grossed up fringe benefits exemption cap, nor is it included as a reportable fringe benefit on the employee's annual PAYG Payment Summary.

Some examples of meal entertainment that could potentially be salary packaged include:

- Dinner at a restaurant for employees and family/friends.
- Taxi travel to the restaurant for meal entertainment. The meal cost must also be included in the claim.
- Professional catering costs for a private function (eg. wedding or 21st birthday party).

The factors to consider on determining whether meal entertainment is being provided include:

Factors to consider		Explanation
A	Why is the food or drink being provided?	Providing refreshments to enable the employee to complete the working day in comfort is not generally entertainment.  Providing food or drink in a social situation where the purpose of the function is for employees to enjoy themselves is likely to be entertainment.
B	What type of food or drink is being provided?	The more elaborate a meal, the more likely it becomes that entertainment arises from eating the meal.
C	When is the food or drink being provided?	Food or drink provided during work time, during overtime or while an employee is travelling for work is less likely to be entertainment. This is because in the majority of these cases, the food or drink is provided for a work-related purpose rather than for an entertainment purpose.
D	Where is the food or drink being provided?	Food or drink provided on your business premises or at the employee's usual workplace is less likely to be entertainment.  Food or drink provided outside business premises, such as at a function room, hotel, restaurant or consumed with other forms of entertainment, is more likely to be entertainment.

# Diary Dates

## October

- 7 September Monthly Payroll tax payment due
- 21 Annual PAYG instalment notice due for payment
- 28 Lodgment and payment of September Quarter 2008 Activity Statements
- 28 Superannuation guarantee due and payable for September 2008 Quarter

## November

- 7 October Monthly Payroll tax payment due
- 21 Lodgment and payment of October 2008 Activity Statement

## December

- 8 November Monthly Payroll Tax payment due
- 21 Lodgment and payment of November 2008 Activity Statements

## Did you know?



### Changes to Superannuation legislation from 1 July 2008

As of 1 July 2008 the superannuation guarantee legislation has changed the definition of ordinary time earnings to calculate super guarantee contributions with the aim of ensuring all employees are treated the same for super guarantee purposes.

Ordinary time earnings are generally what employees earn for their ordinary hours of work. This includes over-award payments, commissions, shift allowances and paid leave, and excludes such things as overtime (subject to certain exemptions).

Previously some employers were calculating super guarantee contributions on earnings base contained in some of the following:

- an industrial award;
- an existing employment agreement;
- a fund's trust deed; or
- a law of the Commonwealth, States or Territories.

As a result of this change employers should check their current superannuation arrangements to see if they are using an earnings base other than ordinary time earnings, to calculate super contributions.

*Wisdom is knowing what to do next; virtue is doing it.*

— David Starr Jordan

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