

TAX TIPS

FOR MEDICAL PRACTICES

Business Arrangements and Related Implications

Text by Inland Revenue Authority of Singapore



Introduction

There are different business structures or business arrangements that you can consider when setting up a private practice. Besides setting up as a sole-proprietor or a partner in the partnership, you can also incorporate a company and become the director of the company.

Generally, a medical practitioner can decide on and adopt a business arrangement that best suits their business needs, so long as there are bona fide commercial reasons and tax advantage is not one of the main purposes underlying the arrangement.

Before determining which business structure to adopt, here are some tips and information that you may want to know.

Business arrangements and the related tax implications

As a general rule, any remuneration received for rendering medical services through the personal efforts of the individual should be subject to tax in the hands of the individual. The individual should not set up a company to book or account for income earned from the provision of such personal services predominantly performed by him/her.

If you decide to incorporate a company to manage your medical practice, your company may be eligible for the Start-up Tax Exemption (SUTE) and Partial Tax Exemption (PTE) schemes.

In order to enjoy the SUTE and PTE, the company will need to be set up for bona fide commercial reasons and not have tax avoidance or reduction of tax as one of its main purposes. If the arrangement is artificial, contrived, has little or no commercial substance and is designed to obtain tax advantage, the Inland Revenue Authority of Singapore (IRAS) would consider it unacceptable for tax purposes and not accord the SUTE or PTE.

In addition, the director and employees (including the doctor) of the company

are expected to receive an arm's length remuneration from the company for the provision of services in their individual capacities. This arm's length remuneration would be the direct reward (typically salary, bonus and/or benefits-in-kind) that the company is prepared to offer in hiring a doctor with equivalent skills and experience in providing similar services in the open market. As a director/shareholder of the company, the medical practitioner should also be sufficiently remunerated for the functions performed as a company director.

Common questions

How does one then ascertain whether there are sufficient commercial reasons or economic reality to qualify for the SUTE/PTE?

In general, if the company is required to manage adequate functions, hold substantive assets and bear commercial risks, IRAS would then be of the view that the use of a company structure would fall within the intended scope of the tax exemption schemes.

On the other hand, if the company does not have assets, employees and is a one-man show by the doctor who is also the director/shareholder, IRAS would be inclined to disregard the arrangement as the company is unlikely to perform any economic function, have any assets or bear any commercial risk. This includes the mere rental of a clinic space or engagement of clinic staff for administrative duties that do not or insufficiently serve a commercial purpose, vis-a-vis the tax avoided or reduced.

So if there is enough substance to justify using a company structure, how many companies can I set up for my business?

Only one company should be set up for each distinctive set of operations. Taxpayers should not wrongfully seek additional tax savings accorded by the SUTE/PTE schemes. Examples of wrongful

practices include setting up and spreading income across several companies with obtaining a tax advantage as one of the main purposes; structuring business entities using partnerships without bona fide commercial reasons other than to obtain a tax benefit; and assigning income that is not aligned with economic reality to obtain a tax benefit.

If IRAS comes across such arrangements, the arrangements/transactions may be disregarded for tax purposes by disallowing SUTE/PTE for the multiple companies and applying the arm's length principle to determine fees due to the service provider/doctor. Taxpayers may be penalised if there are under-declaration of income and/or wrongful claim of business expenses.

So I am only allowed one company per set of operations. Since the SUTE is more advantageous compared to the PTE, can I re-incorporate the company every three years so that I will continually benefit from the SUTE?

If the operations remain largely unchanged and there are no economic or commercial reasons that require the re-incorporation of the company, IRAS will not accord the new company SUTE benefits.

Can I set up a company to receive income for personal services I provide?

Unless there are substantive reasons why income derived from the provision of personal services should be paid to another company, the said income should be treated as personal income and not assigned to a company. IRAS has observed that there are doctors who set up shell companies to receive income that they had rightfully earned in their personal capacities. Under such circumstances, IRAS will tax the income in the name of the doctor.

For more information on the companies' tax exemption schemes, or if you are unclear if your company structure meets the requirements for the SUTE/PTE schemes, please write to ctmail@iras.gov.sg. ♦