

Note for Main TALC/ TALC Direct

GPs with GMS income

At the most recent meetings of Main TALC and TALC Direct practitioners emphasised the need for clarity in relation the GP/GMS income matter in advance of the upcoming tax filing season. Revenue is in the process of developing guidance on this matter and will publish an updated TDM in the coming weeks. In advance of that, and taking on board the calls for certainty as soon as possible, this note provides a brief outline of the position that will be set out in the TDM. Further detail will be provided in the TDM.

As has been acknowledged at both TALC fora, the PSWT credits issue is part of a wider issue arising from contractual arrangements involving GPs. As a matter of law, payments made to a GP under a GMS contract belong to the GP who has entered into that contract with the HSE. This is evident from the terms of a GMS contract and this interpretation was confirmed in a TAC determination in 2022 (01TACD2022). This position does not change because the payments are mandated to be paid to another person, such as a medical practice. There is no legal basis for Revenue to treat income belonging to an individual GP to be income of another person/ medical practice for tax purposes. Therefore, a GP who holds a GMS contract—

- 1) is a chargeable person as regards income arising under the contract and should report that income under the self-assessment system, and
- 2) is the specified person for the purposes of PSWT and, therefore, is the person who may, where the relevant criteria are met, claim a credit for PSWT deducted on a GMS payment. A credit may not be claimed by any other person, including a medical practice.

Revenue understands that practices have developed whereby a GP may have mandated that GMS payments are paid to a medical practice in circumstances where—

- a) the GP is employed by the medical practice concerned and receives a salary from that practice, which is payable subject to PAYE, or
- b) the GP is a partner in the medical practice concerned and receives a share of the partnership profits.

Revenue expects that, in relation to bona fide arrangements referred to in a) or b) above, for the tax year 2024 onwards, a GP who holds a GMS contract will, where they are not already doing so, account for tax payable in respect of their GMS income under the self-assessment system (i.e. the correct treatment outlined at 1) and 2) above is applied). This expectation, as regards the application of 1) and 2) above in relation to income arising from a GMS contract for the tax year 2024 onwards, does not apply in respect of arrangements that are not bona fide or which have been entered into for the purpose of securing a tax advantage. In respect of such arrangements, the treatment referred to at 1) and 2) above will be applied for all tax years.

For the avoidance of doubt, in circumstances where a GP, who holds a GMS contract, has incorporated his or her medical practice, the treatment referred to at 1) and 2) above will be applied in respect of his or her GMS income for all tax years.