

START A PRIVATE PRACTICE: **GROUPS**

What to look out for if banding together

Working with other colleagues can have various advantages and has become a common way of coping with the ever-changing world of healthcare. It's a chance to share costs, income or perhaps bid for new contracts. **Ian Tongue** (right) explores some of the more common ways consultants work together



COMMITMENT LEVEL is one of the key factors when considering what the group is set up to achieve.

If commitment is low, this usually prevents profit-sharing ventures and results in cost-sharing arrangements. These can be very effective if resources such as secretarial support and rooms are shared.

If commitment levels are higher and individuals are keen to build a business and share profit, it is normal to work in a formal group.

This would require a trading business to be set up which is usually a limited company or limited liability partnership. This allows businesses to have a more formal identity and, when bidding for contracts, gives the group more gravitas.

Cost sharing

This is the simplest way of working together, but will usually

require one party to be driving the arrangement.

These types of ventures are not normally a formal structure such as a limited company or limited liability partnership.

However, if someone is employed via the PAYE scheme, it is usually the responsibility of one of the individuals, so it is worth having an agreement for any related costs that may arise from these obligations; for example, redundancy.

A separate bank account can be maintained and basic record-keeping is required to record the costs and ensure that the cost-sharing agreement is adequately funded.

Within each person's private practice the shared costs will be shown and tax relief obtained. The main driver is to have an overall lower cost base than each per-

son would have if working autonomously.

Formal group

A formal group can bring various benefits, but the key drivers are usually:

- Economies of scale;
- Spreading workload;
- Flexibility;
- Cover and support;
- Exploit opportunities;
- Bargaining strength in numbers.

Once a group of individuals has decided to come together and their objectives are known and commitment is made, it is time to decide the practicalities of the arrangement.

Often there can be disparities in private practices or intended time commitment to the venture, so it is important to ensure that flexi-

bility on profit allocation can accommodate this.

Clashing personalities, establishing ground rules and finding the time to deal with matters are all key considerations.

The main structures used for working together are a limited company or a limited liability partnership. They are very different in their operation and how they are taxed and therefore it is really important that you seek specialist advice on the best structure for your group.

A limited company has shareholders (owners) who expect dividends, usually at a fixed percentage. This can create some barriers to profit extraction where the entitlement to profit is not in line with legal ownership percentage.

A company pays tax in its own right, known as corporation tax,

which has its own deadlines to adhere to, which are separate from self-assessment for individuals.

A limited liability partnership does not pay tax in its own right as a trading business and it is the members that are regarded as trading for the purposes of tax. Therefore, if the member was an individual, they would pay income tax; but if the member was part of a limited company, the company's share of profit would be subject to corporation tax.

As part of the planning process it is extremely important that you take advice from a specialist medical accountant on the most appropriate trading structure for the group.

Legal considerations

Working in groups can often stem from common-room talk, so they start off informally between colleagues and friends. It is important that a solicitor is involved in

the process to ensure that the arrangement is formalised and covers a number of key eventualities that the group may face.

While not exhaustive, the agreement would need to include:

- Profit sharing;
- Admitting new members;
- Removing members;
- Death;
- Divorce;
- Performance;
- Ethical and professional standards.

An additional important legal consideration is ensuring that the way the group operates does not infringe any competition laws as regulated by the Competition and Markets Authority.

There was a well-publicised case involving a group of surgeons that suffered a substantial fine for the way in which prices were set, which influenced both local and national pricing. These policies were ruled to be uncompetitive

and were in breach of UK competition laws. So it is extremely important that you do not stray into working practices and pricing structures that are uncompetitive.

Tax considerations

The tax position for each individual is likely to be different. This can create a preference for one structure over another for some that is not attractive to others. It is important that the nuances around tax efficiency and structure are discussed at an early stage to ensure problems do not arise later.

Due to tax anti-avoidance legislation that was introduced in recent years, one area that can present a problem is the use of limited companies as members of a limited liability partnership.

New arrangements can be particularly affected and therefore these issues need to be considered from the outset. This is an impor-

tant part of the accounting and tax set-up process.

Some groups will have interaction with non-members, perhaps referring to them as associates, and their tax position is important to consider to ensure their status does not give rise to additional risks. Your accountant should be able to advise you on the steps required to protect the group from unexpected risks in this area.

There are many groups of successful consultants and their members enjoy a variety of benefits, from earning more money to easing the pressure of their work-life balance. If you are asked to join a group or are thinking of setting one up, speak to a specialist medical accountant and they can guide you through the process.

Next month – Avoiding capital gains tax traps

Ian Tongue is a partner with Sandison Easson accountants

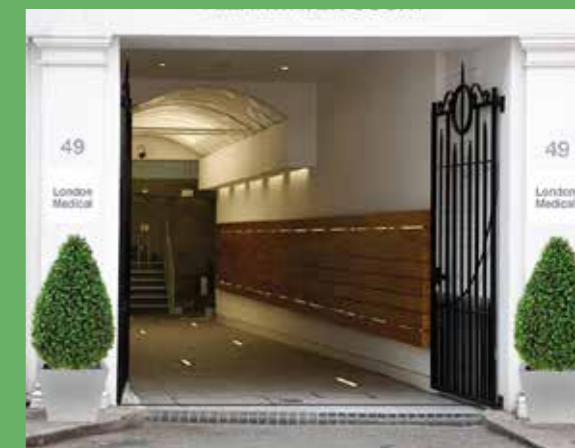
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