

## Statement of the FPMPAM on the issue of Drs and Sdn Bhd

The Federation is aware of the confusion that has arisen following the letter from LHDN to the MMA on this matter.

We are yet to receive a copy of the said letter. Nevertheless it is our aim to inform private doctors of the following:

- 1: The registration of a business, under a Sdn Bhd is clearly prescribed under L.N. 282/57 REGISTRATION OF BUSINESSES RULES 1957
- 2: A doctor/registered medical practitioner (RMP), like any other person, can form a Sdn Bhd. There is no provision in the law that prohibits a doctor from forming a Sdn Bhd and to provide medical/healthcare services under the M&A of the Sdn Bhd.
- 3: Under the PHFSA1998 Section 6, approval and licence may be issued to a sole proprietor, partnership or body corporate. It reads as follows:
  1. Approval to establish or maintain, or a licence to operate or provide may only be issued to-
    - (a) a sole proprietor who is a registered medical practitioner;
    - (b) a partnership which consists of at least one partner who is a registered medical practitioner; or
    - (c) a body corporate whose board of directors consists of at least one person who is a medical practitioner.
4. Thus in the case of a private healthcare facility/clinic owned by the RMP, it can be registered under sole proprietorship or a partnership or under Sdn Bhd.
5. The professional fees of the RMP shall be as per prescribed schedule.
6. The Custom Guide on Healthcare Services as at 3.11.2015 , #11 clearly states that:

For GST purposes, healthcare services provided by a registered or licensed private healthcare facilities are exempt supplies if;

  - (a) That healthcare services are provided by the healthcare professionals under the employment of the registered or licensed private healthcare facility at the premise of the private healthcare facility or at times, where out of necessity, at the home of the patient.
  - (b) A registered or licensed private healthcare facility acts as a panel clinic to a company and provides healthcare services in the company's premise.
7. There are no provision in the PHFSA or the above-mentioned GST Guide specifically stating that RMPs are not allowed to provide the professional services to private hospitals under a Sdn Bhd.

However, as a matter of correct procedure, RMPs providing healthcare services to private hospitals under Sdn Bhd arrangements should ensure that there is a valid agreement between the Hospitals and their Sdn Bhd . The RMP is merely an employee of the Sdn Bhd

providing the service. In this case, the payment from the hospital for professional services rendered to the hospital via the Sdn Bhd should be in the name of the Sdn Bhd and not the personal name of the RMP.

8. There are also no provisions in the PHFSA that specifically disallow for practice agreements between hospitals, individual RMPs, RMPS in Sdn Bhd and other registered private healthcare facilities.
9. Likewise, we have perused a copy of the said letter from LHDN to MMA and we do not find any specific directive that disallows RMPs via their Sdn Bhd from providing services to private hospitals.
10. The tax obligations of any RMP providing services to private hospitals either as a sole-proprietor or as a Sdn Bhd should be as per existing tax regulations.
11. We are aware that the confusion has arisen where there are RMPs providing services to hospitals and have been submitting tax returns in the name of their registered Sdn Bhd but had continued to receive payment in their personal name based on earlier agreements. They had failed to follow-up with the requirement for a new payment arrangement and agreement between their Sdn Bhd and the Hospitals. This technical oversight was noticed during the implementation of the GST Act. It was not a deliberate act to evade tax. Furthermore previous audit by LHDN had not disallow such an arrangement.

We appeal to the LHDN to adopt a lenient approach in this issue as our affected doctors had no intention to evade their tax responsibilities.



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25.7.2016