

ASK THE EXPERTS

Suspended partner and a capital gains tax bill

Q FORMER PARTNER
In 2007 I became a partner at a practice that had previously been single-handed. I did not sign a partnership deed.

A few months later, my partner was suspended by the PCT. It then asked me to run the practice and paid a weekly locum allowance to the practice on top of the GMS funding.

The practice operated with the help of various locums. My partner remained suspended for several months, then resigned. In the absence of a partnership deed, the accountant prepared accounts and divided the profits equally between us.

Can you advise whether my ex-partner is entitled to seniority pay or does it belong to the practice? We did not inform the PCT in writing about how seniority payment should be distributed at the time of forming the partnership. Likewise should the locum allowance be divided? At the time you joined the practice, presumably there had been some discussion over terms, including seniority payments, even though you did not get as far as signing a partnership deed.

While a partnership deed provides the weightiest of evidence of the agreement reached, other evidence may still be relevant.

If in fact there was no agree-

ment about the seniority payment, I can confirm that as a matter of custom and practice it is more usual for seniority payments to be treated as belonging to the individual concerned rather than to be pooled.

The question of the locum payments may be more uncertain as it is less likely you would have considered this issue in advance. That said, in the course of agreeing a partnership deed, it is one of the issues that should have been addressed. Perhaps there was discussion about it?

If not, once again, under custom and practice, it is more usual for the suspended partner to retain the locum payment (90 per cent of usual earnings) and the remaining profits to be applied first to discharging locum (and other) expenses, then divided among the partners. That said, a strict interpretation of the Partnership Act 1890, would suggest the accountant is correct to simply pool the locum payments with the other practice income and divide it equally.

Lynne Abbess

Q SUPERANNUATION
I am a full-time GP who retired in July 2007, took my NHS pension and returned as a profit-sharing partner. The PCT has deducted the 14 per cent

funding for my employer's NHS superannuation contribution from our PMS income on the grounds I no longer contribute to the NHS Pension Scheme. I was told that when a new partner replaces me, the 14 per cent contribution for them will be funded. But was the PCT right to remove my 14 per cent?

When the new GMS contract was introduced in 2004, practices became responsible for paying employer's NHS superannuation for GP principals. Previously the PCT paid this directly to the NHS pensions.

From April 2004, practices' funding was uplifted to include an amount equal to the cost of the employer's contribution prior to the new contract. GMS practices' global sum equivalent and PMS practices' baseline funding was increased for this.

If a partner in a GMS practice chooses to take 24-hour retirement, there should be no change to its funding, so I do not agree with the PCT's action. PMS contracts are locally negotiated and PCTs' treatment of PMS practices does seem to vary. However they should not be disadvantaging your practice compared with GMS practices. I suggest you raise this issue with your LMC.

Jenny Stone

Q CAPITAL GAINS TAX
I practise in a rural area and own some agricultural land. The local authority has bought some of it to build a road. I am liable for £10,000 in capital gains tax (CGT). If I bought more

land to replace what I sold, could I reclaim some of the CGT and is there a time frame for doing so?

If you farm the land and are reinvesting in land that will be used in this trade, you can defer CGT on the disposal by claiming roll-over relief. You must acquire the land either within one year before or three years after disposing of the old land.

Jenny Stone

PLEASE NOTE

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THE EXPERTS

Email questions or phone our experts...



NHS RULES

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PRACTICE-BASED COMMISSIONING

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