

GP LINK Lunches | Rick Fitzpatrick

Dr Kenneth McCroary, Chair of Sydney South West GP Link, hosts a series of meetings with clinical/political/regional individuals or organisations to discuss issues and solutions for GPs working in South Western Sydney.



Rick Fitzpatrick



Dr Ken McCroary

Ken McCroary - It seems the latest disaster in the neverending narrative that is GPs are in crisis as is primary health care and the associated inadequate funding and support seems to be the issue of payroll tax.

GP link continues to advocate on behalf of our local GPs and I have attended multiple meetings with the Royal Australian College of General Practitioners and the Australian Medical Association over the last few weeks particularly dealing with the impending disaster of imposing this additional tax on the majority of general practice centres in NSW.

I thought it would be a good opportunity to source some local information and I have been lucky enough to catch up with Rick Fitzpatrick from Fitzpatrick and Robertson Accounting Firm for lunch to discuss this significant issue.

Rick Fitzpatrick is an experienced director with an established history of working in the accounting industry. He graduated as a Chartered Accountant before becoming a member of the Certified Public Accountant Group of Australia.

He has conducted a successful accounting practice for over 30 years. Clients cover a wide variety of industries and professions including the medical profession. He is skilled in tax planning business coaching and all things accounting. Rick is considered a very proactive accountant who is across all new changes in tax legislation.

Thanks again for joining me today Rick and I look forward to hearing from you regarding this both confusing and frightful topic which is payroll tax.

So Rick how about we start with a couple of explanations can you tell me what actually CA stands for?

Rick Fitzpatrick - Yes that is for Chartered Accountants of Australia.

Ken McCroary - And CPA?

Rick Fitzpatrick - Certified Practicing Accountants Australia.

Ken McCroary - And what do those two acronyms actually mean in terms of the organisations or the qualifications?

Rick Fitzpatrick - They are the two organisations that the majority of accountants are members of. There are a couple of others as well. The Chartered Accountant one has been around the longest and the Certified Practising Accountants not sure when it actually started but they have been around for quite a while as well. These days there is very little difference between the two. Years ago when I first did my degree I did the professional year with the Chartered Accountants and it was a really difficult professional year and that was the distinction between the two.

The CPA has never had a professional year and probably about at least 10-15 years ago they started talking about amalgamation and one of the sticking points was the professional year. So the CPA then started their own professional year and it has got better and better, and they keep going and they have had two votes so far I think but what keeps them apart is probably the old Chartered Accountants and maybe the big four. So the big four in the accounting firms they are chartered and they keep pushing back because they see themselves as distinct and don't really want to join but it will happen eventually. They will become the one organisation. They have the same things they both require a degree and they both have professional years now. I was a chartered and a CPA I chose the CPA because I think they are better marketers I think more people know about CPA especially out in the suburb areas where we are but I could always go back and be a Chartered Accountant if I wanted to.

Ken McCroary - Very good, so essentially you guys have to do training then like an internship like we did for twelve months as well for both of them now?

Rick Fitzpatrick - These days those professional years are getting closer and closer in terms of how they look. They are all running modules now and you can do them over a couple of years probably when you did yours and I did mine it was full on 12 months, really, really difficult but now they make it easier for them.

Ken McCroary - That is good to hear.

Rick Fitzpatrick - It is actually.

Ken McCroary - Can you tell us about your experience over your years in accounting and particularly any work with the medical profession?

Rick Fitzpatrick - I have been around now for about 35 years and we have evolved over that time. We were very much tax and compliance to start with and as time has gone on we have tried to offer a number of services which I will talk about.

So our clients are widespread where it is general practice but there are probably two main areas that our clients are in and the is professional services and trades. Trades because we are out in the suburbs in the Macarthur area and a lot of people out there work for building companies or are builders or in construction. And when I say professional services that includes the medical profession so GPs, specialists, psychologists, optometrists anyone that falls into that sort of area they would be termed a professional service under our definition anyhow.

So yes we have worked with a lot of those over the years the differential I suppose for our firm is that we are very big into the technology. We are basically a Xero firm so xero being software so most of our clients being 95% now use Xero and a lot of the related apps that the medical profession use as well integrates with Xero.

We are able to help them with that as well as just doing the compliance work. And probably about back in 2005 I went down the path of doing some coaching and so my role in the firm these days as well as doing tax and compliance is business mentoring so I work with clients to improve their businesses or to help them understand their businesses more and that covers a wide range of either growing their business sorting out their organisation structure and their team and a little bit on marketing. I will generally call in experts in some areas like marketing for instance.

Ken McCroary - So yes being hands on that is important isn't it not just filling out the returns just actually giving advice about business.

Rick Fitzpatrick - Yes I think that you are right. I think the big thing these days that clients want is probably tax and compliance, yes they have got to do it but it is not something that is going to improve their business put it that way. It is still important because obviously you can overpay in tax if it is not done correctly but mostly the key things I find now they certainly need help with their technology and being guided in the right way as to which technology is best to use and helping them stay on top of their business and enjoy their business and not getting bogged down in HR issues and various other issues to detract them to what they really want to be doing.

Ken McCroary - Yes we will come back to that because enjoying your work and enjoying your business is something that is probably really important in sustaining it and sustaining your own wellbeing moving forward isn't it?

Rick Fitzpatrick - Yes 100%

Ken McCroary - So at lunch we spoke about payroll tax because it is such a big issue currently with doctors not just locally but throughout NSW and the rest of the country. Now it is challenging and it is probably not as well understood as it should be and there is a lot of confusion out there so I was just wondering if we could go back to payroll tax 101 and how about you explain to us about what it actually is and what it means?

Rick Fitzpatrick - Yes it is probably one of my bugbears it is one of the most hated taxes there is and I put it up along side stamp duty. In the sense you get no benefit from it. The governments will always tell you they use that money then to do other things but it is a tax on employing people which I think is absolutely ridiculous. But it is run by the State Governments and they make so much money out of it they will never get rid of it. It would just leave such a big hole in their budget but there is just no reasonable explanation as to why you are paying tax to employ people. It is just crazy in my opinion.

So if you would like I will talk a bit about payroll tax because the big issue and I will talk about the two cases in particular that have brought up this issue but payroll tax is not going to count for everyone. So in NSW for instance the threshold before you start paying payroll tax is \$1.2 million so the cases we will mention obviously they have got multiple medical centres. One is a medical centre and another one is an optometrist chain of stores, so they obviously employ quite a few people.

So a lot of people even if the definition of contract say for instance in your case Ken you employ someone as a contractor and the ATO determine no they are not really a contractor you still are not going to pay payroll tax unless you are over your total wages and payments to contractors are over \$1.2 million and if you go over \$1.2 the excess you pay is 5.45% on. Queensland is \$1.3 million. Victoria is a lot lower from what I can understand is less than 100,000 and their rates are different so it is a state based tax.

I suppose without going to far off topic my big concern with what has happened as well is if the OSR's definition of a contractor is against or if they are determining if people are employees that then leads to issues about whether superannuation needs to be paid and that is where the people who are below the threshold then have an issue as well because you may be paying a contractor but not paying their superannuation because you think that is their responsibility so the two cases that came up were the Optical Superstore in Victoria as I said they had a chain of stores and in those stores they employed obviously optometrists and then they do a fees slip.

The one we spoke about is the Thomas and Naaz vs the OSR that is a medical centre. I think they had three medical centres. So they were employing people on a basis, or doctors rather pretty common practice really where they do a fee slip so in that instance they were keeping 30% as an admin fee and 70% went to the practising doctor. And that has gone on for a long time and it goes on in smaller practices as well.

Unfortunately it was in NSW that they decided to have a look at these contractor arrangements and they ended up determining that they weren't really contractors. And some of the things that came up in relation to this particular case was trying to compare whether the doctors were an employee or whatever. And some of the things that came against Thomas and Naaz where that the medical records belonged to the practice so they didn't belong to the doctor. They controlled the behaviour of the doctors. They had restraint clauses on the doctors. They controlled the hourly rates they could charge and they also controlled the rosters and leave requests.

So in other words there really was no independence. They were not running their own business they were really employees and a couple of other things about how they banked the income etc into one bank account so there were a lot of things that really stopped them from being contractors. They are still challenging it but I think they are going to have difficulty by the fact the medical records belonged to the practice and a lot of control as I said rested with Thomas and Naaz the doctor didn't really have any control over or any real independence. So, does that make sense in terms of understanding the issue that they had?

Ken McCroary - Oh absolutely, so I will just clarify first though the OSR that is the various Offices of State Revenue throughout the different states?

Rick Fitzpatrick - Yes, correct.

Ken McCroary - And if we have been not paying payroll tax for years and years and years because doctors have been thought of as other professionals as well that they are actually contracted by various entities rather than actually direct employees. Now what is going to happen is the governments in various states are now changing their assessments and they are saying the doctors are now actually employees which means we are going to be hit with a tax payroll bill and then we are also going to be hit with the 10.5% superannuation on top the payments as well now which is going to have significant impact on cashflow and viability of a lot of our practices. And we have already had practices shut down locally which is really disappointing and really scary, and the other thing is it is still up in the air there is still no solid decisions. We don't know. Queensland is sort of touchy feely we might delay. We will give you a moratorium were we don't claw back the last 4, 5, 6 years of payments which we think we might be able to go after as well so it is still really confusing isn't it?

Rick Fitzpatrick - Oh look it is yes, you are 100% right it is confusing and this happened actually in the building industry where they, because wherever you are just providing labour it is very difficult to argue you are not an employee and that is in the construction industry they went after contractors as well. So where they were just providing labour they would turn up on a job and their using a bricklayer for example where really he just brought his shoal along and just laid the concrete of whatever. They attacked them and said well they are not really contractors they are employees you tell them what jobs to go to. You pay them an hourly rate.

That is one thing that is in favour of what has happened here doctors are not getting paid an hourly rate. So that is a big tick. And that will be their strongest argument to say well these guys are not being paid an hourly rate they get paid based on the number of people they see and obviously the invoicing. And they do have control over what advice they give to the patients and whilst they are there they obviously keep the records of patients and things like that. So I think the other problem they had too was, I cant remember who it was but I think it was Thomas and Naaz but they were banking the money into their main account so in other words the medical practice was putting it into the main account. The optical store actually had a service entity, so all the fees went into away from the main entity and they all went into a service entity. I would have thought that was good enough and from there they did a 70/30 split but down in Victoria they went after them as well even though that was the set up. I mean ideally the doctor collects the fees and then pays the 30% back to the medical centre but I would imagine and you could advise me on this that that is not what doctors want to be doing. They would not want to handle the admin side of things so it is not something they would want to take up.

Ken McCroary - Yes I think there is a difference between practice owners and practice contractors in the terms of the amount of overhead red tape and expense we have and as contractors we want to stay small and just turn up and do our thing. I don't have any control over the doctors who work here when they want to take time off they are going to take time off they are deciding not to work certain days. So there is this really obvious differentiation between these guys are not really employees like the rest of my staff. These guys come and go as they please. They agree on payments they will work for not me obliging them to accept any sort of payment level. So, there is definitely a differentiation there and that is why there is this ongoing confusion still. Do you have any general advice for practice owners and contractors, employees about what they should be doing and where this is going?

Rick Fitzpatrick - Look I think without a doubt you need to have an agreement in place. You need to have a contractor's agreement in place. I think it needs to be done professionally because you have got to examine all of these issues and obviously to try and avoid them in regard to that arrangement.

So, you are 100% right the NSW or even Victoria they are sort of taking a black and white view at the moment and it is not. It is a grey view. You could argue both ways as to whether they are an employee or a contractor. So, it is definitely not black and white. And I think there are plenty of things that could be put in place in terms of the agreements, structure, how the invoicing is done. Importantly how the banking is done.

And as I said I think the Optical Super Store had that service entity which was entity away from the main entity where the funds went into and then was distributed from there. I think in my opinion I think that was fine, no problem with that. So I do think it is going to come back at having your agreement and even the ATO now if you go onto the ATO website they had a tool that compares a contractor vs employee they have now taken that down. Because they are now changing their views on what a contractor is and they are coming more back to the business owners side as opposed to the black and white which they had previously.

Ken McCroary - Yes, it is just confusing moving forward isn't. Now I was just thinking about what you said about the greyness. Does that mean, we have a double-edged sword where some doctors do like the idea of becoming employees it is a bit less hassle, less worry with ABNs and their own GST collection and distribution, paying their own tax and getting it all done for them as well. So there is a group that are encouraged to go down that line. But then we have also got people who do value their independence and their ability to be essentially walking to their own march and running their own show to a degree. Does that mean something like sub-leasing rooms instead of contracting is going to be something that comes up in the future where that gets around these issues or not?

Rick Fitzpatrick - You are right. That was one of the tests they had at the original contract was whether you rented premises. So, when I referred to that admin fee of 30% if you broke that down that would be obviously payment towards admin staff and it would also be, and that is what you need in an agreement. It would also be a lease fee or a rent fee of the office or any of the equipment or tools that they use. So, structuring that agreement is going to be key to it ticking things off. So yes they don't want to be employees they want to be contractors and work their own hours and own days.

Ken McCroary - Yes, so there is some optimism coming through with what you are saying that regardless of how the decisions and the rules pan out. Whether we do get an exemption from payroll tax for doctors or whether we have to start paying payroll tax as well. There may still be ways to arrange your working practice with other doctors that want to be employees or other doctors that want to fair dinkum want to remain as a contractor and just rent rooms and that sort of thing.

Rick Fitzpatrick - See the other thing Ken, the other thing we haven't spoken about is that the contractors are getting paid more than they would be as an employee. And this happened in the building trade. Why would you go back, say you were earning \$100-\$120 an hour as a contractor but if you became an employee you have got to pay holidays, workers comps, superannuation etc. you are rate would be back around \$65-\$70 dollars an hour. They don't want to do that, they want the \$100 an hour. So the contractor is going to push back as well, they want to be paid the higher rate.

Ken McCroary - Yes exactly.

Rick Fitzpatrick - And the harder they work the more they earn.

Ken McCroary - Yes correct. If it all changes not just their income drops the practices drops as well being hit with all of the other expenses. And there is also the flow through to the rest of the economy. If we are being taxed to employ people isn't that a negative to stimulus to growth and employment?

Rick Fitzpatrick - Yes, it is Ken, but like I said to me stamp duty is the same. Paying stamp duty is just, look you buy a house and pay stamp duty. What do they do with that money? It is just sending it back into the general revenue. Payroll tax is the same. But payroll tax, the amount of money they collect it is just at the moment they can't justify it but they won't stop payroll tax because it blows too big a hole in their budget. I mean with stamp duty now as you have probably heard they are going more like a GST type tax where you pay land tax on property for the rest of the remainder of ownership where as you don't pay the stamp duty and a lump sum up front. And that is eventually where I think stamp duty is going to go but they are going to have to do it gradually because the effect on the state's budget is going to be huge.

Ken McCroary - Yes, it is a big whack. Particularly here in NSW. Now speaking of State Governments we have seen a lot of noise in the media lately with the bromance from the east coast with Dan and Dom and you know standing up for GPs encouraging the Federal Government to pay more money for GP services trying to encourage bulk billing etc. But to me it is just duplicity, isn't it? To me these guys are just putting on a show that they support general practice but at the same time they are scheming behind the scenes to take whatever money is put into the profession back through their own tax revenue offices yes?

Rick Fitzpatrick - Oh you are right. Yes I haven't looked at it like that but you are 100% right. I think the situation we have gotten into now I mean GPs in my opinion have been underpaid for many years you know through what you have to go through to become a GP and the knowledge and the assistance you give to the community it feel way behind. And to do your job properly and to give a proper conference with the people when they come in to see you, you would be earning less than a lot of other trades and industries so I can understand how the bulk billing has started falling to pieces. They definitely need a higher rate. I am on your side.

Ken McCroary - Yes, thank you. I thought we might of shift off now do you have any other advice for GPs in general about their taxes and things?

Rick Fitzpatrick - I think what I find is that a lot of them just don't take enough time to consider it. You are so busy either seeing patients face-to-face or a lot of teleconferences now. Then you have got to write reports and that sort of thing they just don't spend enough time on their business and that is where the take up of technology is hugely important. You have got to try and make your business run as smoothly as possible and to do things in the most appropriate way and that is where technology can help you a lot. So, taking the time out and having someone do an overview of your practice and seeing where you can improve it. I just think is a must these days. So that would be my first thing and then from a tax point of view just making sure that you take advantage of all tax provisions and be aware of things like the instant access right off. The extra payments you can put into superannuation and other deductions make sure that you are getting all of the deductions that you can.

Ken McCroary - Yes, I think you bring up a really good point there with the whole working on your business thing. You know we study health and then by default we become business people.

Rick Fitzpatrick - Yes.

Ken McCroary - With very little attention paid to it throughout undergraduate and even post graduate training as well when it is inevitable for a great deal of us that we will be running business, participating in business, contributing to business whatever. So I guess we probably should be looking at earlier education as well shouldn't we about the importance of business in health and medicine.

Rick Fitzpatrick - I think in any industry and yours is a great example where the student or the qualified person has a large potential of going into business for themselves and in your profession a lot of that happens either they become GPs or they become contractors or anything like that. It should be something in the course and it could be across a lot of courses actually where you learn to understand businesses and taxes and things like that. It probably should be even at school level for the last few years. But definitely within the courses when you are doing them they should have if not one or two subjects that are on running your own business.

Ken McCroary - Yes, I agree. Now earlier on you mentioned that you sort of varied your roles in your own firm in terms of growing businesses, training and mentoring. So, I am just interested what keeps you keen and fresh as the years roll by?

Rick Fitzpatrick - I think you always need to be getting new clients. So, to me, and I don't know whether that is the same with you, you need to keep your practice or in my instance you need to keep the new clients coming through because all clients are different and many are different put it that way not all but many are different. And if they are coming from different industries and I see a lot of successful businesses and it always intrigues me how they got there and it may not be that they had necessarily great business sense. But they are very unique in what they are doing or they found a niche and they have capitalised on it and they have done very well out of it, so yes that sort of thing but also helping other people where I can to start enjoying their business again and to grow and be successful. So I just find it very interesting and the tax and compliance is not as interesting to me these days but I have got nine accountants so they stay on top of it. That is nine senior accountants, so I like to be able to come into the tail end of that and pick it up and look at the results and then provide advice to the business owner.

Ken McCroary - And you have mentioned Joy on a number of occasions throughout the discussion today and I sense that is an important part of your work as well?

Rick Fitzpatrick - Oh yes look you don't want to feel like it is a chore and I have never reached that stage and I suppose at various times when you are under stress and pressure and it has happened a little bit in the last couple of years because staffing has been a big issue across a lot of industries. And it probably is in your industry as well. I remember 5 or 10 years ago trying to find doctors was extremely difficult and I imagine it probably hasn't changed that much.

Trying to find accountants is difficult so those sort of things are not enjoyable when you are constantly having to find staff. Or the staff that you employ are not at the level you would want them to be. So that can be not enjoyable but usually that is only for a short amount of time, and you can overcome it. I do enjoy it and I haven't found it a chore and that is what keeps me going.

Ken McCroary - Very good. In the medical profession we have also had a major shake up of our continued professional development program. The medical board has changed the whole system starting January this year. And I know you guys have to do your own CPD, CPE whatever you want to call it as well so what drives you to continue your learning and your growth in your development?

Rick Fitzpatrick - Well once again especially in relation to businesses and my enjoyment comes about learning, and I am still a long way off it. Is what makes businesses tick, what makes certain businesses very successful or the person very successful. So I enjoy looking at how they got there and the steps of them getting there. But there is a process that you can follow to improve your business. And every time I have used it and I do vary it depending on the person I am dealing with as well but I do think that there is a process you can follow. It is just like building a house you have got to make sure the foundations are right first. So, when you go into a business, and you look at it you have got to make sure those foundations are right. And things like making sure they are using software that gives you accurate results. That is a foundation. You have got to make sure that part of it is right. So what you are looking at and analysing you know is correct and accurate and then you can build the business up from that point onwards. So, learning about that is in particular. And I am finding a lot of the, and I don't know about your profession, but in our profession there is a lot more, it is not all just about tax and compliance there is a lot more about understanding businesses and that side of things. So, you can do that as part of your CPD.

Ken McCroary - Do you have any specific suggestions if people are interested about learning more about business or their business and requirements like that. Do you have a course or something that you could recommend?

Rick Fitzpatrick - I think that one of the things that is key to all successful and really successful business people is that a lot of them do a lot of reading. They read business books. So I don't know if that is something that being a doctor you are always reading about the medical profession and wanting to keep up to date with things like that. But reading business books that teach you about business and how these businesses become successful I think that is good. Now whether you read them. I have a client that uses Audible he loves listening to the books so when he is driving around or he might be just doing other things while listening to various books so there is a lot of good books out there that you can read. And I can forward that to you later actually a number of books that I would recommend that you could read about business.

Ken McCroary - Yes, that would be good. And they are not all about bland and boring there is some Purple Cows and all sorts of fancy names out there.

Rick Fitzpatrick - Oh, you have read Purple Cow have you?

Ken McCroary - Oh, you know I get around. I tend to read a fair bit. So, there is a lot of interesting advice out there. There is a lot of fun stuff to do in terms of growing business and learning about business I know the RACGP have a business owners' group, we have a business owners conference on every year. The AMA does a lot of work with small businesses and encouraging business owners to participate and use their resources as well. So, there are other organisations my colleagues can certainly be joining if they were interested as well which will help. But yes if we could get a link to some books or something that would be terrific if you don't mind.

Rick Fitzpatrick - Yes, I will just interrupt you for two seconds because you mentioned time. And time is a big factor. So, one of the first things I always do when I go into a business is I do a matrix of time. And you know break it up into four areas. What is urgent. What is not urgent. What is unimportant. And what I can delete. And that is a key to looking at where a business owner is spending their time. Because we all get caught up doing things that either, we should defer, delete or do it now or follow the four D's. And if you follow the four D's which right now I have got three of them and I am struggling to find the fourth one but if you follow the four D's in terms of improving your time. Time is key to running successful businesses.

Ken McCroary - I think that comes from an oldie doesn't it isn't that one of Stephen Covey advises in Seven habits doesn't it?

Rick Fitzpatrick - Yes correct.

Ken McCroary - So that sort of stuff has been out there and discussed but I guess the people who should be reading this stuff haven't read it yet? Right?

Rick Fitzpatrick - I think so. But I think the other thing too is that people just forget. And until someone mentions it to you again. You know I am good with this myself. I will do it and it will work well for three months or four months then I will just fall off the rail a bit where I should be coming back and looking at it constantly and making sure that I am following it. Because it does work.

Ken McCroary - Yes exactly. I thought just to finish up if I may just ask you one more question and that would be if you have any advice for not just Doctors and GPs but all professionals about keeping well and looking after themselves?

Rick Fitzpatrick - Look I suppose I can speak for myself because I am getting a bit older these days and I have always played a lot of sports so for a long time I did not have to worry too much about my physical side but as I got older and I stopped playing sport I certainly do find now that you need to be doing things and you need to be listening to your body. I am currently doing Pilates which I have never done, and I started about six weeks ago which I enjoy. Eating correctly because weight as you get older the weight just seems to pile on. It is easy to put on but very difficult to get off so you know doing things like that and making sure you are exercising, but exercising only to a level I think as you get older that your body allows you to. Don't try and be a marathon runner or triathlete you just have to be doing the right exercise. And enjoying it. I am doing Pilates now but in three or four months' time I am likely to be doing something else I like varying it around a fair bit.

Ken McCroary - Sounds like very wise advice. And I thought that was just experience and not age that was happening to you but that is alright. And I would like to finalise by reminding everybody to have their own and a good GP as well hey?

Rick Fitzpatrick - Yes 100% I agree, and have their regular check-ups.

Ken McCroary - Thanks so much Rick it has been really fun and hopefully we have got some complex issues a little bit more understood out there and thanks very much for joining me today.

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