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Business Health Biotechnology

Bupa Australia to pay $157m to ATO

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Updated Mar 8, 2019 — 1.49pm,
first published at 12.33pm

Bupa Australia will pay $157 million to the Australian Taxation Office after reaching an in-principle deal following an investigation into the company last year that involved claims of tax dodging.

The local unit of the London-based healthcare giant was audited by the ATO over the structure of its debt, which involved "thin capitalisation" – the stacking up of debt to minimise tax.

Bupa said on Friday the issue of "thin capitalisation", or transfer pricing relating to the funding of its Australian acquisitions in the 2007 and 2008 years, had now been settled.

Under the settlement with the ATO, Bupa Australia will not concede any admission of liability. **Supplied**

The settlement involves no admission of liability by Bupa Australia, which will pay a total of $157 million to the ATO, reflecting taxes, interest, penalties and an offset for overpaid withholding tax for the 2007 to 2018 years.

The settlement provides "certainty for both Bupa Australia and the ATO in relation to the taxation treatment of Bupa Australia's future cross-border funding costs, which will be within the 'low risk' or 'green zone' rating in accordance with the risk framework set out in the ATO's Practice Compliance Guideline PCG 2017/4," the company said in a statement.

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"We are pleased to reach this in-principle agreement. Importantly, the settlement will provide clarity for Bupa Australia and the ATO in relation to how taxes will be assessed in the future. This certainty allows us to continue to focus on delivering healthcare services to our customers."

Complex structure

Bupa has always denied using tax avoidance or aggressive tax-minimisation strategies.

A controversial 2018 Tax Justice Report alleged Bupa had a highly complex corporate structure and made frequent use of related-party loans and debt from a corporate restructure, among other things, to reduce its profits in Australia. The report also pointed the finger at rivals Opal Aged Care and Allity.

The report author, Jason Ward, who is an adjunct senior researcher at the University of Tasmania, told *The Sydney Morning Herald* last year: "Complex corporate structures with extensive related-party transactions are a hallmark of aggressive tax avoidance".

Bupa's tax arrangements also have been scrutinised by authorities in Britain and Spain, where the group remains in talks about a possible resolution.

Bupa is Australia's largest aged care provider and jostles with Medibank Private as the country's largest private health insurer. It also runs dental and optical chains. Its parent company, Bupa, will report its full-year results next Thursday morning in Britain.

An ATO spokesperson said due to confidentiality laws "we are unable to comment on taxpayer related matters."

However, the spokesperson added the ATO will only agree to a settlement after careful consideration of the risk to revenue, precedential value of the dispute, and likelihood of success in litigation.

In its June 2018 submission to the Inquiry into financial and tax practices of for-profit aged care providers, the ATO noted some concerns over the financing arrangements used by certain multinational entities in the aged care industry. In particular, conditions of their related party financing arrangements.

"As a result of these concerns, we are reviewing the application of the transfer pricing rules to financing arrangements of entities in this industry," the spokesperson said.