



Australian Government



TAX
PRACTITIONERS
BOARD

Five steps to a successful tax practice

Presented by Debra Anderson, Board Member, Tax Practitioners Board

Welcome

'In the spirit of reconciliation, we acknowledge the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past, present and emerging. We extend that respect to all Aboriginal and Torres Strait Islander peoples today.'

Access the presentation slides : tpb.gov.au/webinar-hub

What we will cover today

- ✓ What is best practice
- ✓ Using technology and data in your practice
- ✓ The benefits of continuing professional education
- ✓ Taking reasonable care
- ✓ Acting with honesty and integrity
- ✓ Why you should consider using engagement letters
- ✓ Q&A



Meet your presenter

- Debra Anderson
- Board Member
- Tax Practitioners Board

Code of professional conduct

Code item 1

Act honestly and with integrity

Code item 2

Comply with tax laws in the conduct of your personal affairs

Code item 3

Account to your client for money or other property you hold in trust

Code item 4

Act lawfully in your client's best interest

Code item 5

Manage conflicts of interest

Code item 6

Do not disclose information without client permission

Code item 7

Ensure tax agent services are provided competently

Code item 8

Maintain the knowledge/skills relevant to the services you provide

Code item 9

Take reasonable care to ascertain your client's state of affairs

Code item 10

Take reasonable care to ensure taxation laws are applied correctly

Code item 11

Do not obstruct the proper administration of taxation laws

Code item 12

Advise your client of their rights and obligations

Code item 13

Maintain professional indemnity insurance

Code item 14

Respond to requests and directions from the Board

Best practice

- Best practice is providing your clients with the highest quality representation and advice by complying with your obligations and staying up to date.
- Best practice means communicating clearly with your clients regarding the terms of their engagement.
- It also means acting fairly and with integrity.
- As a tax practitioner, you play a critical role in influencing and supporting the integrity of the tax system.

Best practice: Examples

Best practice is when tax practitioners:

- use **technology** and **data** to be more efficient and effective
- keep up to date with their **skills** and **knowledge**
- exercise sound **judgment** in applying their **professional knowledge** and **skills**
- are **honest** and act with **integrity**, including complying with their **personal tax obligations**
- look at relevant factors in relation to the **term of their engagements**.

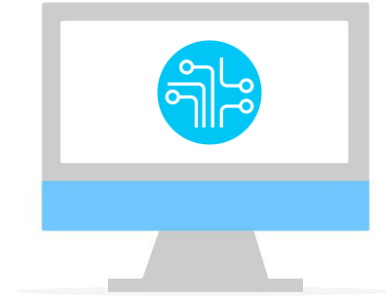


Step 1: Technology and data

A decorative graphic in the bottom right corner consisting of numerous thin, light blue curved lines that sweep upwards and to the right, creating a sense of motion and modernity.

Using technology and data

- Tax practitioners operate in an environment of rapidly changing technology and data – technology solutions can assist in being more efficient and effective.
- Clients expect interactions with them to be fast, easy and digital and there are many software solutions that can assist with this.
- Software can provide opportunities to bring added value to clients through the analysis and application of data.



Cyber security

Good practices consider preventative measures for cyber security. At a minimum, the TPB considers the following to be best practice:

- install and maintain anti-virus software
- deploy firewalls on your computers and/or networks
- ensure your operating systems and programs always have the latest security patches
- protect client records or files using encryption
- consider using a second form of authentication to protect your online accounts.

Outsourcing and offshoring



- Outsourcing is where you enter an arrangement with a third party to provide a specific process, function, service or activity.
- Offshoring occurs where you enter an arrangement to transfer a process, function, service or activity to a country other than Australia. Offshoring does not necessarily involve the use of outsourcing.
- You must ensure that you comply with your Code obligations, including Code item 6, 7, 9 10 and 13.
- The *Privacy Act 1988* sets out several Australian Privacy Principles, which govern the use of, storage and disclosure of personal information.

Step 2: Continuing Professional Education (CPE)



CPE is more than a Code obligation

- It is imperative that your knowledge and skills adapt and improve as the law, society and your individual practice changes.
- CPE supports you to:
 - maintain and improve your knowledge and skills
 - keep up-to-date with developments in the relevant tax laws and tax administration, including the increasing importance of cyber security in your business practices.
 - maintain and build upon your primary qualifications.
- CPE also helps protect consumers of tax practitioner services.

CPE requirements from 1 July 2022



- Following a review and public consultation process, we have updated our CPE policy.
- The new policy commenced on 1 July 2022.
- Under the revised policy:
 - Tax agents should complete a minimum of **120 hours** of CPE over a 3-year period.
 - BAS agents should complete a minimum of **90 hours** of CPE over a 3-year period.
 - Both tax and BAS agents should complete a minimum of **20 hours** of CPE each year.

Step 3: Taking reasonable care

What is “reasonable care” ?

- There is no set formula for determining what it means to take reasonable care in any given situation.
- Whether a registered tax practitioner has taken reasonable care will depend on an examination of all the circumstances and exercising professional judgement to consider factors like the:
 - terms of engagement between the tax practitioner and client
 - complexity of the transaction, and the tax practitioner’s expertise
 - client’s circumstances, including their level of sophistication; and
 - nature of any pre-existing relationship between the tax practitioner and client.

Code item 9

- Code item 9 requires you to take reasonable care in ascertaining a client's state of affairs.
- It does not require you to audit, examine or review books and records or other source documents to independently verify the accuracy of information supplied.
- However, you cannot automatically discharge your responsibility by simply accepting what you have been told.
- Where a statement provided by a client seems credible, consistent (for existing clients) and you have no reason to doubt it, you can accept it without further checking.
- In cases where the information provided by your client doesn't seem to add up, taking reasonable care means you ask questions of your client or examine the client's records, or both.

Code item 10

Code item 10 requires you to take reasonable care to ensure that taxation laws are applied correctly. This may include referring to:

- legislation and related extrinsic material
- relevant case law
- rulings and determinations issued by the ATO
- the Commissioner's instructions
- information published or provided by a recognised professional association
- publications, information, advice or commentaries published by other experts
- relevant training material.

Best practice: Reasonable care



- Remember it's an objective test – for example the standard is that of a 'reasonable tax practitioner' in your circumstances.
- The requirement to take reasonable care relates to the services you have been engaged to provide for the client.
- Best practice is to ensure that the terms of the engagement are clearly documented in an engagement letter.
- Generally, further enquiries would not be needed if the agreed scope of the services either:
 - excludes the examination of information provided by the client, or
 - requires you to rely on the information or advice of another expert.

Case study

- The ATO referred a case after completing audits where they disallowed work-related expenses because they:
 - they were not adequately substantiated; and/or
 - the clients did not demonstrate sufficient connection between the claims and the work-related activities.
- The BCC found the company had breached the Code by failing to:
 - ask sufficient or relevant questions regarding deductions
 - sight the necessary supporting documentation
 - ensure the taxation laws were applied correctly
 - substantiate clients' work-related expense claims.

Proof of identity (POI) requirements



- The TPB has recently developed new POI guidelines to help tax practitioners verify their clients' identities and meet obligations to secure the personal and financial details of clients.
- The guidance outlines appropriate requirements for verification, including defining the documents to be sighted, maintaining records and recommendations about achieving remote verification of clients.
- We have worked closely with the ATO to ensure both our guidelines are aligned to minimise any burden on you.

Step 4: Honesty and integrity



Standards relating to behaviour

Setting the scene:

- Ethics vs morals
- Law vs ethics
- Ethics in the tax context.

Concepts in the *Tax Agent Services Act 2009*, including the Code of Professional Conduct:

- Fit and proper person
- Honesty and integrity.



Honesty and integrity

To determine if a tax practitioner is acting with honesty and integrity we consider if they have:

- acted properly and without deceit
- acted without intent to gain an improper benefit or advantage for themselves or others
- genuinely attempted to carry out their duties and obligations imposed by law
- demonstrated honesty in preparing taxation returns lodged to the ATO
- failed to make full disclosure of circumstances
- accessed a taxpayer's personal taxation information without authority
- failed to notify regulatory authorities of fraudulent activity that posed a risk.

Personal tax obligations

In addition to your obligations under the tax laws generally, Code item 2 requires you to comply with the taxation laws in the conduct of your personal affairs, including:

- lodging income tax returns on time
- lodging instalment or business activity statements on time
- meeting your employer obligations
- paying all tax amounts when due or coming to an arrangement with the ATO.

Step 5: Using engagement letters



What your clients should expect from you



Ask questions
to understand
their situation



Ask them to
substantiate and
provide evidence of
any claims they make



Not act illegally,
even if it is in their
best interests



Advise them of their
obligations under
the tax laws

What to include in an engagement letter



- A description of the work to be completed.
- How much the work will cost – this will help to limit disputes about fees.
- How you manage your client’s information and maintain confidentiality, and whether their information will be disclosed to third parties.
- Arrangements for storing your client’s documents or making copies of them.
- Your responsibility to provide services in a competent manner and within agreed time frames, including lodging documents with the ATO.
- How you will deal with tax refunds received on behalf of your client.



Questions

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