



Australian Government



TAX
PRACTITIONERS
BOARD

Know your obligations

Presented by Peter Hogan, 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 we do
- ✓ Your obligations
- ✓ Code of Professional Conduct
- ✓ COVID-19 concessions
- ✓ Ongoing registration requirements
- ✓ Penalties and sanctions
- ✓ Case studies
- ✓ Questions

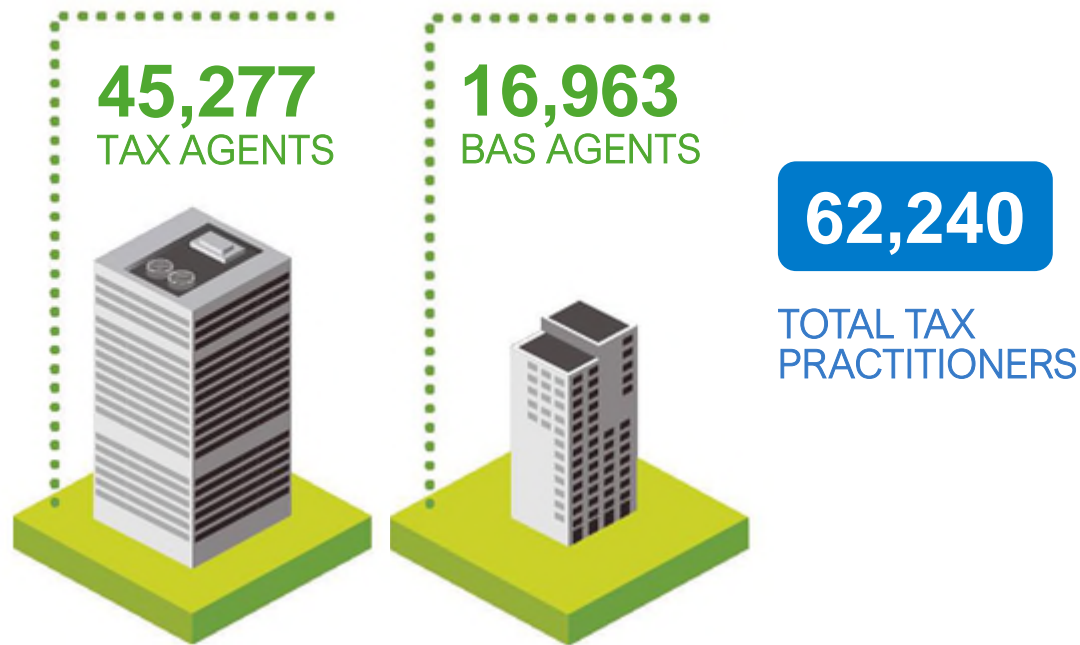
Access the presentation slides and resource document: tpb.gov.au/webinar-hub



Meet your presenter

- Peter Hogan
- Board Member
- Tax Practitioners Board

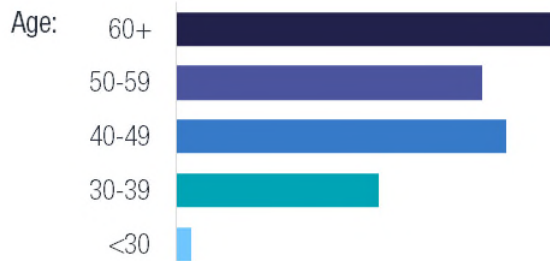
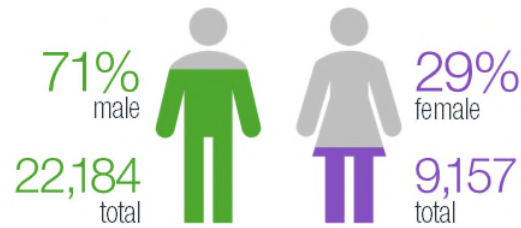
Registered tax practitioner population



Registered tax practitioner demographics

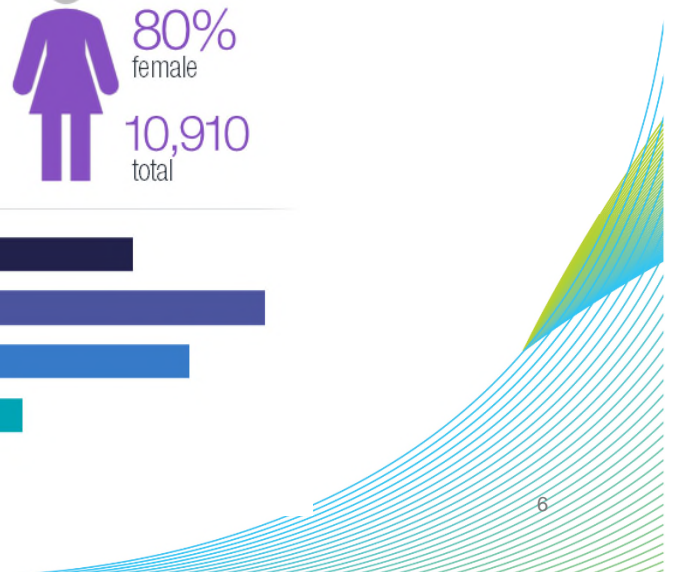
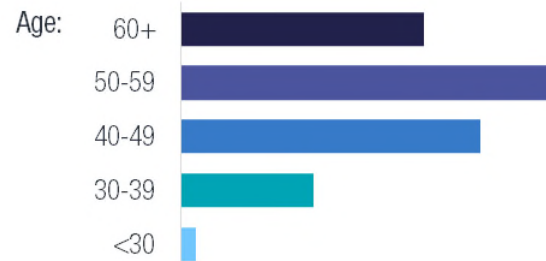
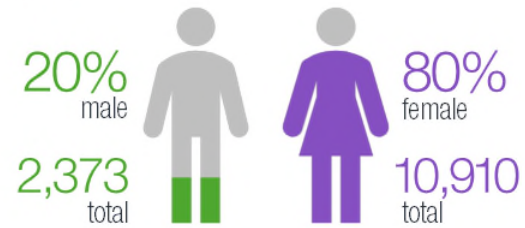
TAX AGENTS

Gender:



BAS AGENTS

Gender:

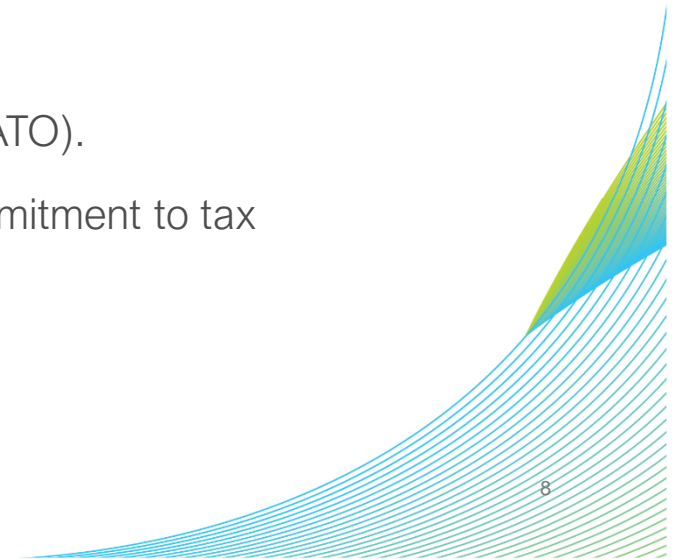


What we do

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Who we are and our obligations to you

- We are a national body created under the *Tax Agent Services Act 2009* (TASA) and we set policies to:
 - provide consumer protection for clients of tax practitioners
 - register and regulate tax practitioners.
- We are separate from the Australian Taxation Office (ATO).
- The Tax Practitioner Service Charter outlines our commitment to tax practitioners.



PURPOSE

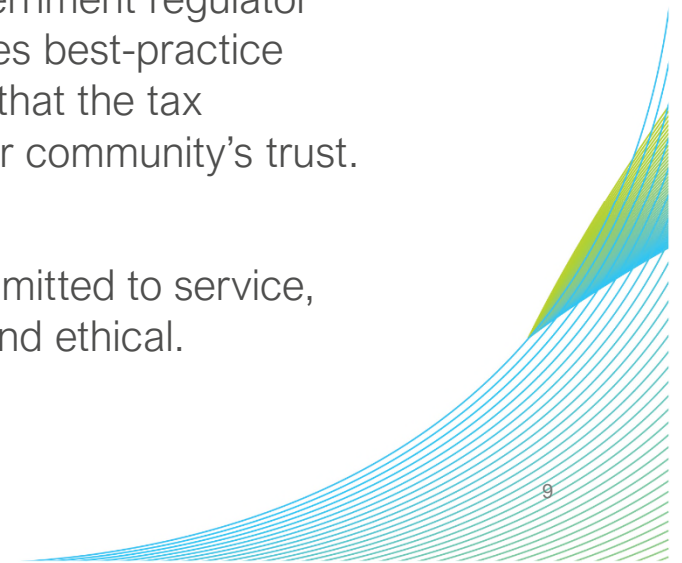
The role of the TPB is to ensure that tax practitioner services are provided to the public in accordance with appropriate standards of professional and ethical conduct.

VISION

The TPB is a leading government regulator that drives reform and uses best-practice methodologies to ensure that the tax profession is worthy of our community's trust.

VALUES

The TPB is impartial, committed to service, accountable, respectful and ethical.



Our strategic objectives



Objective 1

Efficient registration
of tax practitioners



Objective 2

Effective compliance
through education,
deterrence and
sanctions



Objective 3

Innovation and
preparation
for the future

Tax practitioner obligations

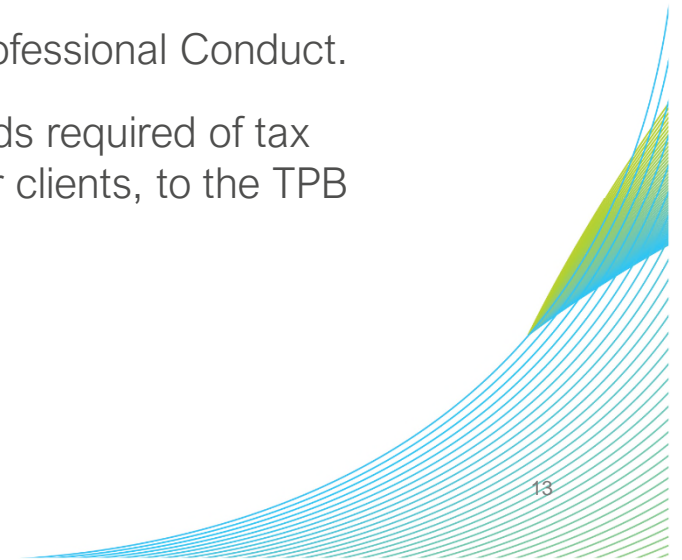
Ongoing registration requirements: PI insurance



- You must have professional indemnity (PI) insurance cover that meets our requirements and you need to tell us about the details of this cover.
- PI insurance is a consumer protection mechanism to compensate your clients in the event they suffer loss due to an act, error or omission as a result of services you provide.
- We recommend you consider appropriate risk mitigation for cyber threats, including the option of supplementing your insurance to cover cyber breaches.

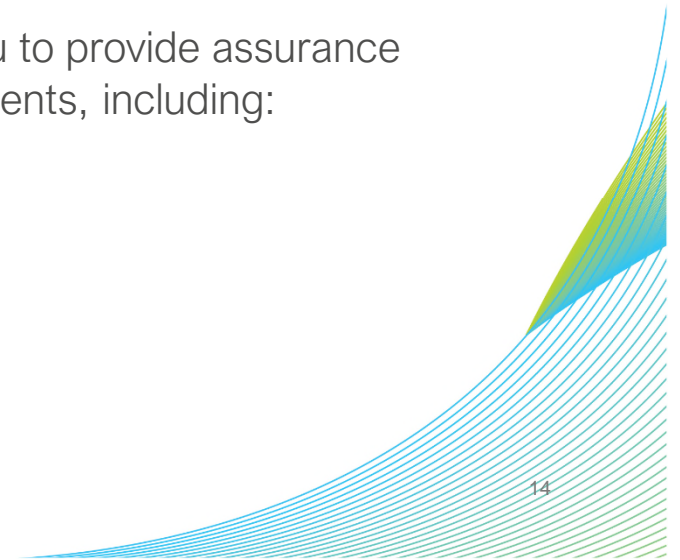
Ongoing registration requirements: Fit and proper person

- You must also satisfy a fit and proper person requirement.
- Registered tax practitioners are subject to various civil penalty provisions which impose financial penalties for certain conduct.
- You must comply with obligations under the Code of Professional Conduct.
- It sets out the required professional and ethical standards required of tax practitioners, including the obligations they have to their clients, to the TPB and in relation to their own conduct.



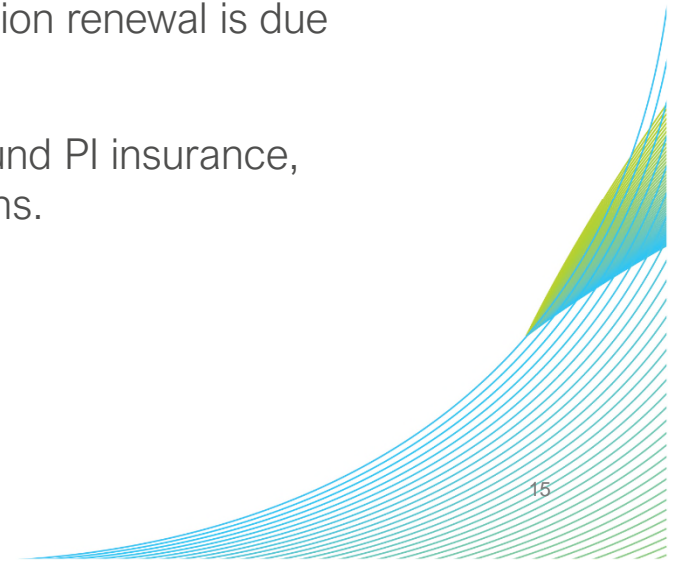
Ongoing registration requirements: Annual declarations

- Your annual declaration is due before the anniversary of your registration expiry date. It is due each year, except in the year you renew your registration.
- We will email you before your annual declaration is due.
- The annual declaration process is a simple way for you to provide assurance to us that you meet your ongoing registration requirements, including:
 - having PI insurance cover
 - undertaking CPE (individuals only)
 - satisfying fit and proper requirements, and
 - meeting personal tax obligations.



COVID-19 concession: Annual declarations

- The requirement to complete annual declarations has temporarily been waived for some tax practitioners due to COVID-19.
- If your annual declaration is due on or before 30 June 2021, you don't have to complete it until 2022 or 2023 (if your registration renewal is due in 2022).
- You must continue meeting your other obligations around PI insurance, fit and proper requirements and personal tax obligations.



Ongoing registration requirements



Meet qualification and relevant experience requirements.



Meet continuing professional education requirements.



Notify the TPB of changes that affect your registration.

Code of Professional Conduct

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

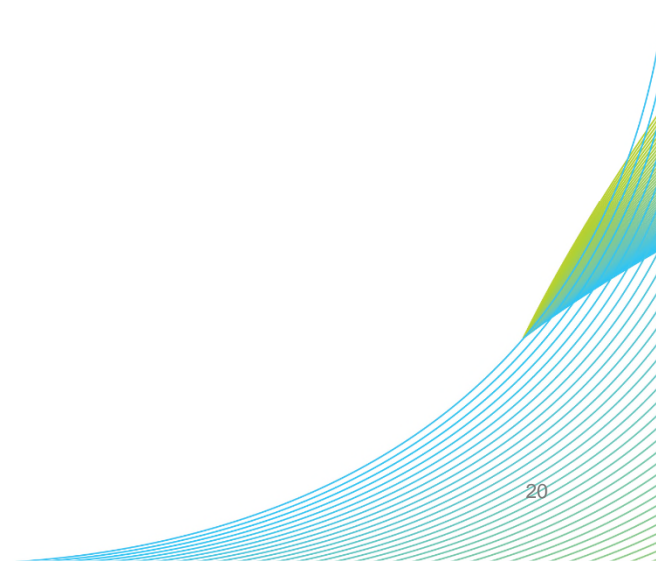
Respond to board requests



- You must respond to all requests from the Board in a timely, responsible and reasonable manner.
- Examples of failures to respond to a Board request or direction in a timely, responsible and reasonable manner may include:
 - failing to provide written responses to Board correspondence within the time period specified
 - making arrangements with the Board to provide information, and subsequently failing to provide that information in accordance with the arrangement.

Complying with taxation laws

- One of your obligations under the Code is to comply with the tax laws in the conduct of your personal tax affairs.
- This includes timely lodgement of:
 - personal income tax returns
 - activity statements
 - payment of super guarantee contributions
 - PAYG withholding, and
 - instalment payments.



Taking reasonable care

To assist you to comply with your reasonable care obligations under the Code:

- Exercise professional judgement taking into account relevant factors.
- Utilise signed written agreements with clients (e.g. letters of engagement or statements of advice, in the case of tax (financial) advisers).

Taking reasonable care

To assist you to comply with your reasonable care obligations you should also:

- Maintain adequate supervision and control. All registered tax practitioners must ensure services they provide, or that are provided on their behalf, are provided competently.
- Take appropriate relevant steps to ensure you have all required information. For example:
 - make further enquiries
 - ask relevant questions
 - request further information
 - seek guidance if the matter is outside your area of expertise.

Number of CPE hours

For a standard 3 year registration:



Tax agent
90 hours
(minimum 10
hours each year)



BAS agent
45 hours
(minimum 5
hours each year)

CPE Review: How we arrived here



- The review commenced in late 2019 with extensive consultation to date, including:
 - Initial consultation with forum members.
 - Public discussion paper (47 submissions received).
 - Further consultation with forum members.
- On 11 February 2021, we released our exposure draft comment. We received 95 submissions.
- We considered all views to.
- Our new CPE policy will commence from 1 July.



Why the changes are necessary

- The object of the TASA is consumer protection. Completing CPE will assist you to maintain and enhance your knowledge for the benefit of your clients and the wider community.
- Businesses increasingly operate in a complex environment. CPE plays a vital role in assisting you to adapt as the law, society and your clients' needs change.
- There is a wide range of CPE activities available, and they are not limited to those activities that improve your technical knowledge.
- You can also now complete educational health and wellbeing activities, up to a maximum of 10% of the CPE hours you are required to complete.

CPE changes from 1 July 2022

From 1 July 2022, under our revised policy:

- Tax agents should complete a minimum of **120 hours of CPE over a 3-year period** – an increase from 90 hours over a 3-year period in the current policy.
- BAS agents should complete a minimum of **90 hours of CPE over a 3-year period** – an increase from 45 hours over a 3-year period in the current policy.
- Both tax and BAS agents should complete a minimum of **20 hours of CPE each year**. This has been increased from 10 hours per year for tax agents and 5 hours per year for BAS agents in the current policy.

COVID-19 concession: 25% reading cap

- We have removed the 25% reading cap on relevant technical/professional reading until 31 December 2022.
- However, you must:
 - first and foremost, explore and undertake online CPE offerings (as these online activities are becoming more readily available)
 - keep a log detailing all the CPE activities undertaken.
- All elements of our CPE requirements still apply.

COVID-19 concession: Health & wellbeing

- We are currently accepting a small amount of educative health and wellbeing activities as relevant activities until 30 June 2022.
- These could include activities such as attending webinars about how to manage stress and self-care, as being a relevant CPE activity that will count towards your CPE hours for TPB purposes.
- However, the vast majority of your CPE activities must still be relevant to the tax practitioner services you provide that maintain, develop or promote your skills, knowledge or attributes.

Penalties and sanctions

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Penalties and sanctions

- If we find a tax practitioner has failed to comply with the TASA we may impose one or more administrative sanctions or seek a Court imposed civil penalty.
- Sanctions can include:
 - a written caution
 - an order
 - suspension of registration for a certain period
 - termination of registration.
- The severity of a sanction depends on the nature and extent of the breach and the individual circumstances of each case.

Case study 1

- A tax agent breached Code item 1 when they lodged income tax returns and business activity statements for a client receiving the refunds into their own bank account, without the clients' knowledge or authority.
- They also breached Code item 2 when they failed, in their capacity as a director of 2 other companies, to pay outstanding tax debts.
- Finally, they breached Code item 7 when they didn't competently provide tax agent services to numerous clients of their company.
- This case was considered in relation to the conduct of the company that the tax agent was the sole director and supervising tax agent.
- The BCC terminated the tax agent and company's registration.

Case study 2

- A BAS agent failed to act with honesty and integrity when they:
 - made false and misleading statements
 - recorded details of PI insurance cover that they did not hold
 - submitted a false medical report
 - displayed a high level of disrespect to us and our officers.
- They also breached Code item 8 when they failed complete CPE.
- The BAS agent breached Code item 13 when they failed to maintain PI insurance.
- Finally, they breached Code item 14 when they did not respond to Board enquiries.
- The agent was not a fit and proper person and their registration was terminated.



Questions

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