



Australian Government



TAX  
PRACTITIONERS  
BOARD

# Strengthening regulation and safeguarding consumers

**Presented by:**

Mick Mumford, Ryan McDonald and Michael Campbell  
Tax Practitioners Board

# Welcome

*'In the spirit of reconciliation, we respectfully acknowledge the Traditional Owners and Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their cultures, and Elders past, present and emerging.'*

Access the presentation slides: [tpb.gov.au/webinar-hub](https://tpb.gov.au/webinar-hub)

# What we will cover today

- ✓ Our vision for 2022-23
- ✓ How we identify and deal with high-risk tax practitioners
- ✓ Publishing sanctions on the TPB Register
- ✓ How we deal with unregistered preparers
- ✓ Tax clinics
- ✓ Case studies
- ✓ Q&A

# Meet your presenters



**Mick Mumford**  
Director  
Corporate Services



**Ryan McDonald**  
A/g Director  
Legal Unit



**Michael Campbell**  
Director  
Compliance

# Corporate plan 2022-23



# PURPOSE

The TPB's role 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, independent, 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.

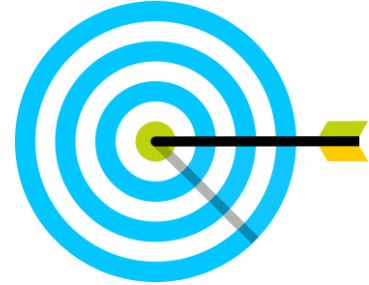
## Our role

- Ensure that tax practitioner services are provided to the public in accordance with appropriate standards of professional and ethical conduct.
- Address misconduct of tax practitioners, breaching the TASA and the Code.
- Support honest and ethical tax practitioners.

# How do we achieve our vision?

3 principles of regulatory best practice:

- 1) Continuous improvement and building trust
- 2) Risk based and data driven
- 3) Collaboration and engagement





# Our regulatory performance measures

Performance measures	Principles of regulator best practice		
	Continuous improvement and building trust	Risk-based and data-driven	Collaboration and engagement
1.1 We contribute to government reform	●		●
2.1 Our internal service standards results	●		
2.2 Our quality assurance results	●	●	
2.3 Tax practitioner satisfaction with engagement with TPB registration and renewal process	●	●	●
2.4 Tax practitioner satisfaction with reduction in red tape	●		●
2.5 The TPB Register is available and updated daily		●	●
3.1 Tax practitioner satisfaction with TPB compliance effectiveness			●
3.2 The number of completed compliance investigations		●	
3.3 The number of self-generated cases	●	●	
3.4 Unregistered preparers are identified and addressed		●	

# Our regulatory performance measures

Performance measures	Principles of regulator best practice		
	Continuous improvement and building trust	Risk-based and data-driven	Collaboration and engagement
4.1 The number of sanctions imposed		●	
4.2 Sanctions are appropriate	●	●	
5.1 The number of guidance products/instruments published	●		●
5.2 Satisfaction from tax practitioners	●		●
6.1 Our system availability		●	
6.2 Our staff wellbeing and engagement scores	●		
6.3 Staff satisfaction with workplace culture	●		
6.4 Staff satisfaction with skills development	●		
6.5 Staff satisfaction with TPB Leadership	●		
6.6 Board satisfaction with TPB governance	●	●	

# High-risk tax practitioners

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 depth.

# High-risk tax practitioners and their conduct



A high-risk tax practitioner is:

- reckless in their work
- an unknowing accomplice or willfully blind
- a facilitator, implementer or promoter of a scheme
- an architect and participant in unethical or illegal arrangements
- someone that takes advantage of jurisdictional difference between agencies
- someone that has little regard for State, Federal or international borders.

# Types of high-risk tax practitioners



We classify high risk tax practitioners into 2 broad categories. They can be:

- a registered tax practitioner that:
  - lodges incompetent, incorrect or false returns and statements
  - has a poor history of compliance with their own tax affairs
  - has allegations of fraudulent or criminal activities against them
  - promotes aggressive tax schemes
- an unregistered preparer.

# Identifying high-risk tax practitioners

There are several ways we can identify a high-risk tax practitioner, including via:

- complaints received from consumers or other tax practitioners
- media and public source information regarding disciplinary or criminal proceedings
- civil disputes in tribunals or courts
- assessments using data and analytics
- referrals from other agencies, such as the ATO.

# Risk evaluation



Once we identify a high-risk tax practitioner, we'll assess and evaluate the risk they pose to the tax system.

- The higher the harm caused, the higher the risk.
- We consider the nature of the high-risk behaviour.
- We develop a risk rating for the likelihood or prevalence of something occurring.

# Penalties and sanctions



# 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.

# Case studies



# Case study 1



## Tax agent deliberately targets senior Australians to steal tax refunds

- A tax agent made unauthorised lodgements for several elderly and vulnerable clients.
- They included their own bank account details in clients' returns and failed to pass on refunds to clients.
- The tax agent did not maintain professional indemnity insurance and failed to respond to our enquiries and repeated requests for information.
- The BCC found the tax agent breached the Code and was no longer a fit and proper person.
- The Board terminated the tax agent's registration and applied the maximum 5-year ban on reapplying for registration.

## Case study 2

### Tax agent involved in serious misconduct, including tax evasion and false invoicing

- Tax agent, Gregory Kennedy:
  - used false invoicing and other fraudulent arrangements
  - misrepresented over \$2 million of assessable dividend income as non-assessable loan repayments
  - made false declarations about outstanding tax obligations.
- The BCC terminated Mr Kennedy's registration with a 3-year ban.
- Mr Kennedy appealed to the AAT, but they affirmed our decision.

# TPB Register

# TPB Register

- The TASA requires us to make publicly available the registration details and registration status (registered, suspended or deregistered) of tax practitioners.
- The TPB public register is available online on the TPB website and is updated daily.
- We now publish additional details on the register about the misconduct or breaches found against tax practitioners, including the Board's reasons for imposing the disciplinary sanction on them.

## Other actions

- If a tax practitioner's registration is terminated, we take other actions including:
  - publishing the decision via the Australian Government Notices Gazette
  - notifying the ATO, ASIC and recognised professional association (if relevant).
- We also work with the ATO to assess and treat the identified risks, including:
  - removing the tax practitioner's electronic access to ATO's Online services
  - stopping lodgements and refunds being generated and paid to fraudulent accounts
  - notifying the tax practitioner's client base that the practitioner is no longer registered.
  - monitoring the movement of clients who exhibited risky behaviours to new practitioners.

# Unregistered preparers





## Unregistered preparers

- Anyone providing tax agent or BAS services for a fee or other reward must be registered with us before providing these services.
- An unregistered preparer provides these services illegally.
- Unregistered preparers pose a big risk to consumers.



# How do we identify unregistered preparers?

Some sources that help us identify unregistered preparers include:

- public complaints
- complaints from other tax practitioners
- Intelligence from co-regulators such as the ATO
- technology and data-driven strategies.



# Partnership with tax clinics



## Partnership with tax clinics



- We work closely with tax clinics to ensure affected taxpayers that used unregistered preparers can access the free, professional and confidential tax advice provided by these clinics.
- The National Tax Clinic Program is a government-funded initiative.
- Universities across Australia have been funded to run the free clinics.
- Students studying tax-related courses provide free tax advice under the supervision of qualified clinic managers.

# Case studies



## Case study 3



### Federal Court orders unregistered preparer to stop preparing and lodging returns

- Jessa Van Stroe prepared and lodged 531 tax returns and charged a fee while unregistered.
- We applied to the Federal Court for an order against Ms Van Stroe.
- The Court ordered Ms Van Stroe to stop providing tax agent services until a determination of our application was finalised.
- Ms Van Stroe did not defend the proceedings or provide any explanation.
- The Court determined Ms Van Stroe was taken to have admitted to providing tax agent services without registration.
- The Court passed an order permanently prohibiting Ms Van Stroe from providing tax agent services for a fee or other reward.

## Case study 4



### Imprisonment and over \$640,000 in fines imposed for multiple offences

- Kent Scott Hacker and their 2 companies, OSGS and Naleview Pty Ltd acted unlawfully by charging fees for providing tax agent services while unregistered.
- They also claimed false and inflated tax deductions for several taxpayers.
- We applied to the Federal Court for penalties and an injunction. Despite this they continued to provide tax agent services.
- We sought a further court order forcing Mr Hacker to display large notices at the OSGS offices warning taxpayers of the risks of using their services.
- The Federal Court found Mr Hacker contravened the TASA 45 times and their 2 companies 42 times. Mr Hacker was sentenced to 7½ months in prison, fined over \$640,000 and had permanent injunctions against them and their companies restraining them from providing unregistered tax agent and BAS services.

# Advertising campaigns





# Tax time advertising campaigns

- Our tax time campaign ran from 6 June to 30 July across both radio and digital advertising.
- The radio ad was heard by 12.3 million people.
- The digital campaign ran across banner ads on targeted websites (receiving 5.5 million impressions), ad copy on google searches and LinkedIn ads to small business owners and people new to the workforce.
- An animated, interactive landing page, explaining the risks of dealing with unregistered preparers, was also published on our website at [tpb.gov.au/tpb-taxtime-2022](https://tpb.gov.au/tpb-taxtime-2022).





# Questions

# Stay in touch with the TPB



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Our enquiry lines are open  
Monday to Friday 9 am to 5 pm  
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