



Australian Government



TAX
PRACTITIONERS
BOARD

Know your obligations

Presented by: Janette Luu
Acting Assistant Secretary

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

What we will cover today

- ✓ What we do
- ✓ Your obligations
- ✓ Code of Professional Conduct
- ✓ Ongoing registration requirements
- ✓ Covid-19 concession
- ✓ Penalties and sanctions
- ✓ Case studies
- ✓ Regulatory reform
- ✓ Q&A

Meet your presenter

Janette Luu

Janette commenced working at the TPB in 2010 as the Senior Adviser to the inaugural Chair of the Board. She is now the Acting Assistant Secretary of the Board with responsibility for Policy and Legislation, Governance and Reform.

Janette is an admitted legal practitioner and holds a Bachelor of Laws and a Bachelor of Economics from the Australian National University

Registered tax practitioner population

As at 30 November 2022

74,736
TOTAL TAX
PRACTITIONERS

Who are made up of:

45,270
TAX AGENTS



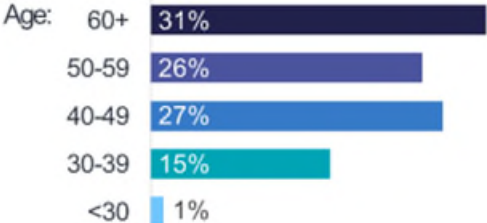
17,142
BAS AGENTS



Registered tax practitioner demographics

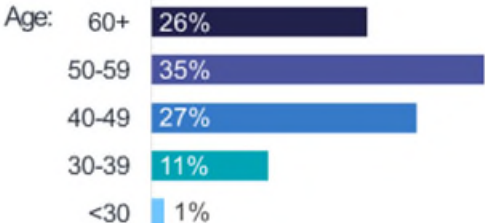
TAX AGENTS

Gender:



BAS AGENTS

Gender:



What we do

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Our purpose and obligations to you

- We are a national body created under the *Tax Agent Services Act 2009* 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.

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

Use the Registered tax practitioner symbol

- A free Registered tax practitioner symbol is available for tax practitioners.
- We regularly promote the Symbol to taxpayers.
- It reassures taxpayers and businesses that you have the right qualifications and experience to look after their tax affairs.



Tax agent
12345678



BAS agent
12345678

Protecting honest tax practitioners

- Most tax practitioners do the right thing but if we identify a serious risk to clients, the public or to revenue, we will take swift action to support the public interest.
- We understand these situations can be difficult to navigate and we encourage you to contact us if you need advice.
- Report those doing the wrong thing: tpb.gov.au/complaints

Budget 2022-23

- The TPB will play an important role in delivering some of the Government's Budget announcements.
- In particular, the TPB will be implementing a program to enhance the integrity of the tax system and profession by proactively addressing higher risk tax practitioners.
- The TPB will use new risk engines to better identify tax practitioners who engage in poor and unlawful tax advice, to improve tax compliance and raise industry standards.

Tax practitioner obligations

Ongoing registration requirements – PI insurance

- You must have 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.



Ongoing registration requirements

- Meeting qualification and relevant experience requirements.
- Meeting continuing professional education requirements.
- Notifying the TPB of changes that affect your registration.



Your obligations



- 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.

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 and activity statements, payment of super guarantee contributions, and PAYG withholding and instalment payments.
- We will take several things into consideration when deciding if a tax practitioner has complied with the tax laws in their personal affairs.

Taking reasonable care

- To assist you to comply with your reasonable care obligations under the Code:
 - Exercise professional judgement taking into account relevant factors.
 - Use signed written agreements with clients (e.g. letters of engagement).
- A common understanding and communication between you and your client clarifies responsibilities and how the work is to be paid for.
- It can assist in avoiding disputes over fees and about the scope of work.

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.

Number of CPE hours

- For a standard 3-year registration:
 - tax agents must complete 120 hours with a minimum of 20 hours each year.
 - BAS agents must complete 90 hours with a minimum of 20 hours each year.
- CPE must be relevant to the tax or BAS services provided.



COVID-19 concession changes

- We've made revisions to our temporary COVID-19 measures and support.
- We've:
 - reinstated the 25% cap for relevant technical or professional reading activities in our CPE policy from 1 January 2023
 - extended the exemption to complete annual declarations until 30 June 2023
 - extended concessions for Board approved courses, where supervised assessments cannot be conducted in line with our requirements until 30 June 2023.
- We'll continue to monitor the situation and will reconsider as a matter of urgency if the need arises.

POLL



- Steven, a registered BAS agent, attends a training session provided by Master Software.
- He uses the Deluxe Master Software package, developed by Master Software, to assist him in providing BAS services to clients.
- He also decides to attend an online seminar by Beyond Blue about managing his mental health.
- Which courses do you think Steven can claim as CPE under the TPB's policy?

Penalties and sanctions

Consequences for failing to comply



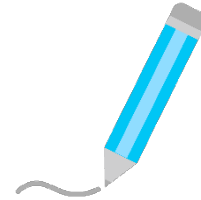
Termination



Suspension



Order



Written
caution

Case study 1



- A tax agent breached Code item 1 when they lodged income tax returns and BAS 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.
- They also breached:
 - Code item 8 when they failed to complete CPE.
 - Code item 13 when they failed to maintain PI insurance.
 - Code item 14 when they did not respond to Board enquiries.
- Their registration was terminated.

Case study 3



- Mr Hacker prepared and lodged tax returns for thousands of taxpayers while unregistered.
- The Federal Court ruled Mr Hacker and his businesses had repeatedly been in contempt of court.
- Mr Hacker contravened the TASA 45 times and his 2 companies 42 times.
- He was sentenced to 7.5 months in prison and he and his related companies, were fined over \$640,000 for multiple offences under the TASA.
- In August 2021 he was sentenced to a further 7 months jail and his company was issued with a \$5,000 fine.

Regulatory reform

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Independent Review of the TPB



- In March 2019, the Government announced an Independent Review into the effectiveness of the TPB and the TASA.
- The Final Report was provided to Government in October 2019 and in November 2020, the Government announced its response to the Review.
- In response to the 28 recommendations, the Government supports 'in full' or 'in-part' 10 recommendations and 'supports in principle' another 10 recommendations.
- At a high level, the Government confirmed that it will continue to strongly support the regulation of tax practitioners through an independent and effective TPB.

Key points in the Government's announcement



- Recognising the TPB as the most appropriate body to regulate tax practitioners.
- Enhancing independence from the ATO.
- Expanding information that currently appears on the TPB's public Register.
- Enhancing cooperation between the TPB, ATO and ASIC.
- Moving to an annual registration cycle for tax practitioners.
- Enabling changes to the Code by legislative instrument.
- Bolstering eligibility requirements.
- Strengthening the TPB's ability to commence investigations.

Next steps



- We will provide further information and guidance to tax practitioners and stakeholders as reforms and law changes are implemented.
- We will work with Treasury and Government to support consultation on the other proposed measures proposed where required.
- We will undertake additional consultation prior to implementing some of the Review recommendations to allow the Government to further develop options, ensuring the best outcome for tax professionals and taxpayers who rely on their services.



Questions

Stay in touch with the TPB



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Our enquiry lines are open
Monday to Friday 9 am to 5 pm
(Sydney time)

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