



Australian Government



TAX
PRACTITIONERS
BOARD

New legislation and annual registration

Presented by

Debra Anderson, Board Member
Janette Luu, Assistant Secretary
Tax Practitioners Board

Welcome

'In the spirit of reconciliation, I respectfully acknowledge the Traditional Owners and Custodians of Country throughout Australia and their continuing connection to land, waters and community. I would like to pay my respect to them and their cultures, and Elders past and present'.

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

What we will cover today

- ✓ Recent changes to the *Tax Agent Services Act 2009*
- ✓ Annual registration
- ✓ Code item 15
- ✓ Code item 16
- ✓ Q&A

**Changes to the *Tax Agent
Services Act 2009***



Important changes to the TASA



Law change	Start date
1. Expanding the Code to prevent the engagement of disqualified entities	1 Jan 2024
2. Giving the Minister the ability to expand the Code	1 Jan 2024
3. Move to annual registration period	1 July 2024
4. Breach reporting – self reporting	1 July 2024
5. Breach reporting – another tax practitioner	1 July 2024
6. Updating of the objects clause in the legislation	1 Jan 2024
7. Enhance the TPB's financial independence	1 July 2024
8. Board member appointments	1 Oct 2024

 Impacts tax practitioners directly

Annual registration

Independent review



Following recommendation 4.7 of the Review:

- Starting from 1 July, the registration period for tax practitioners will occur on an annual basis.
- This better aligns with registration models across the Commonwealth, and we are focused on ensuring a streamlined user experience for you.
- It also ensures we have greater ongoing visibility of tax practitioner registrations and will increase consumer confidence that tax practitioners continue to meet their ongoing registration requirements.

How does this impact your registration?



- From 1 July, the registration period for tax practitioners will change from at least once every 3 years to at least once a year.
- These new annual registration requirements will apply to you from your next renewal date. For example:
 - If you renew your registration before 1 July 2024, you will remain registered for 3 years, until 2027. Your next registration in 2027 will be for a one-year period.
 - If you renew your registration after 1 July 2024, you will be registered for one year, until 2025. Your next renewal in 2025 will continue to be for a one-year period.

Your ongoing registration requirements

- The annual declaration process will be retired and will no longer be a requirement for continued registration.
- The annual registration period will align with other regulatory obligations, such as maintaining professional indemnity insurance and continuing professional education yearly requirements.
- There will be no changes to the CPE requirements.



New registrations

- The change in legislation applies to both new registrations and renewal applications submitted on or after 1 July 2024.
- New applications we will now have a maximum of 4 months to process and decide.
- For renewal of registration, you can continue working until we reach a decision.



Disqualified entities



Disqualified entities

- In 2019 the Independent Review into the effectiveness of the TPB and the TASA showed there is insufficient internal governance practices in place.
- Tax practitioners were using people to provide services on their behalf who were not appropriately qualified or educated.
- The Board is very committed to taking a pragmatic approach in how we apply these new Code items and have some transitional arrangements in place.



Draft guidance

The TPB has released draft guidance for consultation until 16 February 2024:

- **TPB(I) D51/2023:** Code of Professional Conduct – Employing or using a disqualified entity in the provision of tax agent services without approval.
- **TPB(1) D52/2023:** Code of Professional Conduct – Prohibition on providing tax agent services in connection with an arrangement with a disqualified entity.



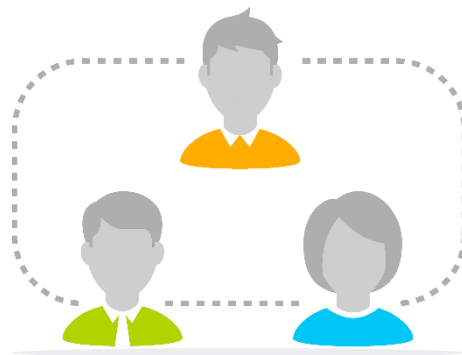
Code item 15



- Code item 15 applies from **1 January 2024 (with transitional arrangements)**.
- Tax practitioners must not employ, or use the services of, a disqualified entity to provide tax agent or BAS services on their behalf if they:
 - know, or ought reasonably to know, that the entity is a disqualified entity, and
 - the TPB has not given approval to employ or use the services of the disqualified entity to provide tax agent or BAS services on their behalf.

Employing or using the services of an 'entity'

- An 'entity' includes employees, associates, contractors and individuals who share in revenue or income received from the tax services provided.
- Does not include those providing peripheral services (e.g. administrative support).



‘On your behalf’

- Means individuals who are employees or under the supervision and control of the registered tax practitioner.
- Similar to the operation of Code item 7 – you must ensure a tax agent service you provide, or that is provided on your behalf, is provided competently.



‘Disqualified entity’

- An entity that is **not** a registered tax agent, BAS agent, or a ‘qualified tax relevant provider’.
- They can be an employee, associate, contractor, individual or entity.
- An entity that has had a specified event occur within the last 5 years.



‘Know or ought reasonably to know’ you are engaging a disqualified entity

- You must take reasonable steps and make reasonable enquiries to determine if an entity is a disqualified entity, including checking the TPB Register and Financial Advisers Register.
- Once you have confirmed this, what a tax practitioner must do next will depend on the point in time.



Steps to determine a disqualified entity

Point in time	Minimum steps
Before employing or using an entity	<ul style="list-style-type: none">• Make appropriate proof of identity enquiries.• Seek written confirmation.
During employment or use of an entity	<ul style="list-style-type: none">• Have a written contract in place to ensure notification and to allow tax practitioner to cease engagement immediate (subject to contract and employment law).
Ceasing to use or employ	<ul style="list-style-type: none">• Keep records of discussions about an entity's disqualified entity status.• Retain records for 5 years after cessation.

Seeking approval to use a disqualified entity



- Log into your My Profile account and complete the relevant form.
- Include the following information:
 - the reasons why the entity is a disqualified entity and the circumstances relating to those reasons
 - the role (or the proposed role) that the entity is performing (or would perform) in providing the tax agent services on your behalf
 - the extent to which the reasons why the entity is a disqualified entity are relevant (or not relevant) to the entity's ability to perform the proposed role to an appropriate standard of professional and ethical conduct
 - any additional information that you consider to be relevant for our consideration of the request.

Poll 1



- Betty is a tax practitioner who enters into a contract with Craig on 30 December 2023 to provide tax agent services on her behalf.
- Betty renews Craig's contract on 15 February 2024, but a disqualified entity event occurs, and Craig becomes a disqualified entity on 1 March 2024.
- Craig notifies Betty immediately.

Disqualified entities – Code item 16

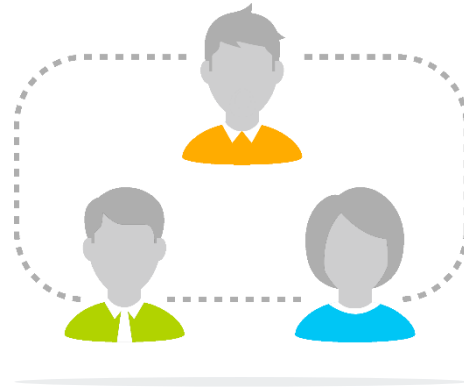
Code item 16



- Code item 16 applies from **1 January 2024** although transitional provisions may apply to some existing arrangements until **31 December 2024**.
- It states that a registered tax practitioner must not provide tax or BAS agent services in connection with an ‘arrangement’ with an entity that the tax practitioner knows, or ought reasonably to know, is a ‘disqualified entity’.
- Arrangements under Code item 16 are **prohibited** and cannot be approved by the TPB.

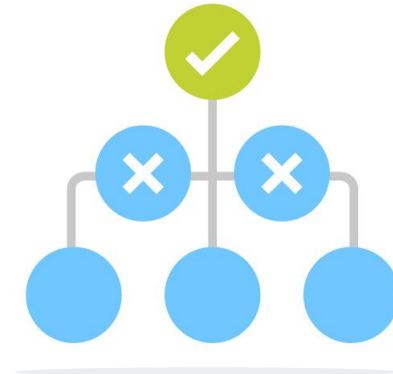
What is an 'arrangement'

- 'Any arrangement, agreement, understanding, promise or undertaking, whether express or implied, and whether or not enforceable (or intended to be enforceable) by legal proceedings'.
- This may include arrangements where there is no amount payable by the disqualified entity, or arrangements that are not in writing (i.e. an oral agreement between the disqualified entity and a registered tax practitioner).



Services provided 'in connection with' an arrangement

- A disqualified entity is operating 'through' the registered tax practitioner.
- For example, the disqualified entity is acting as the 'controlling mind' of the registered tax practitioner and provides tax or BAS agent services (while unregistered) using the registered tax practitioner's credentials.
- Excludes arrangements that are administrative in nature or unrelated to the provision of tax or BAS agent services provided.
- Use your professional judgment when considering your arrangements with other entities.



Notification obligations on disqualified entities

Notification requirements for disqualified entities

- Notify the registered tax practitioner in writing that you are a disqualified entity **before** they enter into a contract, renew or agree to extend an existing contract, or employ or use your services to provide tax or BAS agent services on their behalf.
- If you are employed or used to provide tax practitioner services on behalf of a registered tax practitioner and you **become** a disqualified entity, you must provide written notice to the registered tax practitioner **within 30 days** that you became aware of being a disqualified entity.

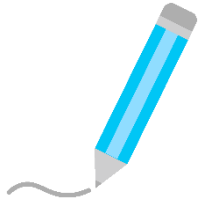


Poll 2



- Sam is a tax practitioner who on 30 December 2023, entered into an arrangement with Sophie which is connected to tax agent services he provides. The arrangement prohibited by Code item 16.
- A disqualified entity event occurs and Sophie becomes a disqualified entity on 1 March 2024. Sophie notifies Sam of this immediately.
- If this arrangement is not renewed or extended; can Sam remain in this arrangement with Sophie?

Consequences for failing to comply



Written
caution



Order



Suspension



Termination

Breach reporting



Breach reporting



- Breach reporting is being introduced to improve the integrity of the tax profession and tax system.
- The obligations apply from 1 July 2024.
- There are 2 types of breach reporting:
 - self-reporting
 - reporting another tax practitioner.
- All breach notifications must be reported to us (and the RPA if applicable) in writing within 30 days.
- The breach must have occurred on or after 1 July 2024.



Questions

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linkedin.com/tax-practitioners-board



Australian enquiries
1300 362 829



twitter.com/TPB_gov_au

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+61 2 6216 3443



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