



Australian Government



TAX
PRACTITIONERS
BOARD

Ethics

Presented by: Peter de Cure AM, Chair 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

What we will cover today

- ✓ Importance of ethics
- ✓ Ethical standards
- ✓ Regulatory framework
- ✓ Recent law changes
- ✓ Proposed reforms
- ✓ Working collectively
- ✓ Case studies
- ✓ Questions

Setting the scene

Poll 1

What is ethics?

1. Behavioural standards.
2. Concepts of right and wrong.
3. Moral principles.
4. A combination of the above.



What is ethics?



- Ethics are the rules or standards which govern conduct, and by which a person is or can be judged and held to account.
- The Macquarie Dictionary defines ethics by linking it to the concept of morality: *A system of moral principles, by which human actions and proposals may be judged good or bad or right or wrong.*
- Ethics in a professional context can be defined as standards or principles set by agencies or professional organisations to define the conduct of people associated with the organisation or the profession.

Ethical standards

A decorative graphic consisting of numerous thin, light blue curved lines that sweep upwards and to the right from the bottom right corner of the slide.

Why does a profession need standards?



- Every profession requires a set of rules that govern the appropriate conduct for the profession.
- Professionals are all in a privileged position of trust in the eyes of the general community.
- We must always act in the right way to protect this trust, applying a sense of fairness and professional judgment in our actions and decisions.
- The ethical standards define behaviours that serve the interest of and help build the trust of the community.

Regulatory framework



TPB's ethics and professional standards framework



- The TPB has an important role to play in protecting consumers of tax practitioner services.
- The TPB must ensure the community has trust and confidence in the tax profession and the integrity of the tax system.
- The Code of Professional Conduct in the *Tax Agent Services Act 2009* was created to assist the TPB in achieving this objective.
- The Code establishes the ethical and professional standards for tax practitioner behaviour.

TPB's standards framework



Fit and proper person test



Code of professional Conduct



Civil penalties obligations



Sanctions

Fit and proper person test



To be satisfied that an individual is a fit and proper person, the Board must consider if the individual:

- is of good fame, integrity and character
- any event described in s20-45 of the TASA has occurred in the previous 5 years
- the individual had the status of an undischarged bankrupt during the previous 5 years
- the individual served a term of imprisonment, in whole or in part, during the previous 5 years.

Poll 2



Who must satisfy the fit and proper person requirement in the TASA?

- A. Individual tax practitioners
- B. Directors of a company tax practitioner
- C. Directors of a company partner of a partnership tax practitioner
- D. Individual partners of a partnership tax practitioner.

HINT: There is more than one correct answer.

Who must be 'fit and proper'?



- All individuals must satisfy our fit and proper person requirement to be registered and remain registered as tax and BAS agents.
- In the case of a company, the fit and proper person requirement applies to each director of the company.
- For a partnership, the fit and proper person requirement applies to:
 - each individual partner
 - each director of company partners.

Poll 3



If you are a registered tax or BAS agent, what should you do if an event affecting your registration occurs?

- A. Notify the TPB of the event details in writing within 30 days of the event occurring.
- B. Disclose the event details to the TPB when renewing your registration.
- C. Both A and B (if renewing your registration later than 30 days of the event).
- D. Unsure

Reporting fit and proper issues



- All issues affecting registration or fitness and propriety must be notified in writing within 30 days of the day on which you become, or ought to have become, aware that event occurred.
- In the case of registered individual tax and BAS agents, the agents must notify issues affecting their registration or fitness and propriety.
- A company or partnership tax practitioner must notify if a director, individual partner or a director of a company partner is no longer a fit and proper person.

Determining fitness and propriety



- There is no general, universally applicable formula for determining whether a person is a fit and proper person for the purpose of registration as a tax practitioner.
- We are required to make a value judgement considering all the circumstances of a given case.
- The underlying principle in assessing fitness and propriety is protecting the community and maintaining public confidence in our tax practitioners.
- It is not to penalise or punish misconduct or unprofessional conduct.

Poll 4



The types of behaviour that could be considered as not fit and proper when dealing with the TPB:

- A. Failure to respond to TPB requests for information and directions in a timely, responsible and reasonable manner.
- B. Being disrespectful and using abusive language in communicating with the TPB and its officers.
- C. Failure to let the TPB know if a staff member (who is not a registered tax practitioner or a director or partner) is prosecuted for outstanding tax obligations.
- D. Providing false or misleading statements to the TPB.

Code of Professional Conduct obligations



Honesty & integrity



Independence



Confidentiality



Competence



Other
responsibilities

Civil penalty provisions



- Civil penalty provisions can be grouped in 2 categories, those relating to conduct:
 - that is prohibited without registration
 - of registered tax practitioners.
- You will breach a civil penalty provision if you knowingly or recklessly:
 - make a false or misleading statement to the Commissioner
 - prepare a false or misleading statement which you know, or should reasonably know is likely to be made to the Commissioner
 - permit or direct an entity to make or prepare a false or misleading statement to the Commissioner.

Sanctions



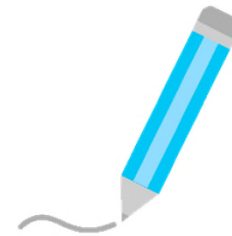
Termination



Suspension



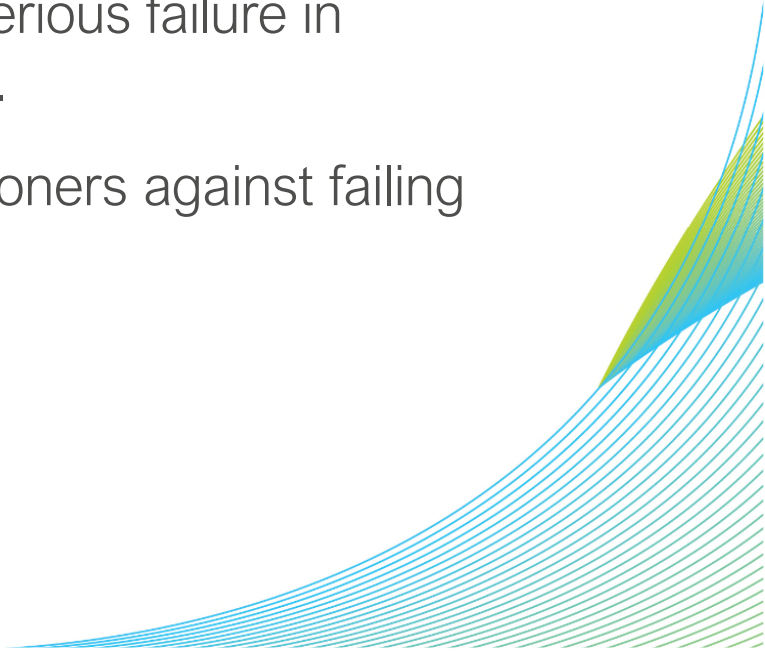
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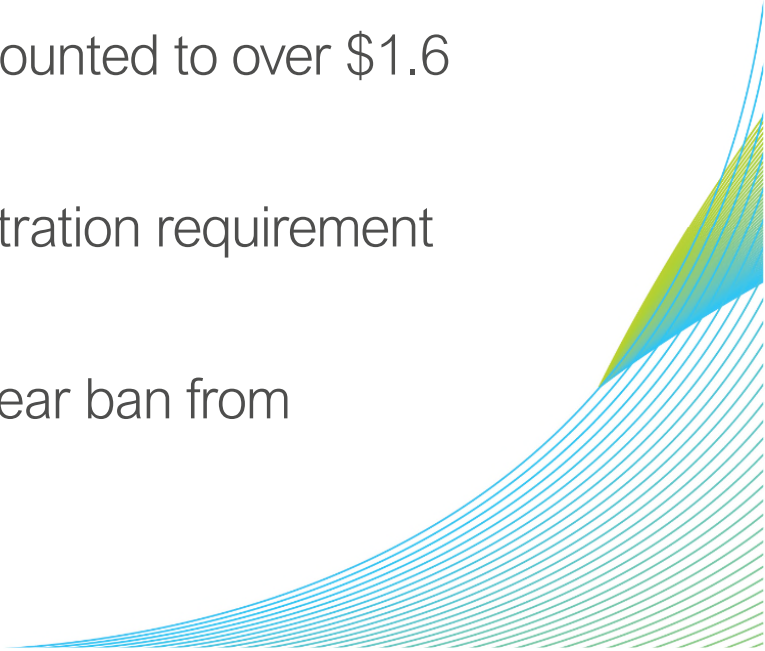
Written
caution



Case study 1

- Failed to report an event affecting their registration.
 - The agent had been convicted of an offence resulting in a sentence of imprisonment and had failed to report this within 30 days.
 - Registration was terminated based on the agent's serious failure in judgement by not reporting their criminal conviction.
 - Serves as a reminder to other registered tax practitioners against failing to report events that may affect their registration.
- 

Case study 2

- A tax agent failed to comply with their tax obligations not only in their individual capacity but also as a director and trustee of multiple entities.
 - Lodged multiple ITR and BAS containing overstated deductions or credits which the ATO audited and determined they were not entitled to.
 - Failed to pay multiple tax debts by their due dates amounted to over \$1.6 million.
 - We found the tax agent had ceased to meet the registration requirement that they were a fit and proper person.
 - The tax agent's registration was terminated and a 5-year ban from reapplication for registration was imposed.
- 

Recent law changes



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

Proposed reforms



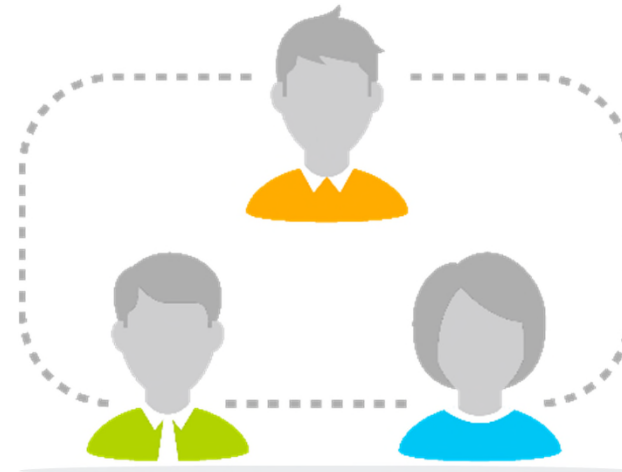
Bill before Parliament



- Increase the scope and penalty amount of penalty provisions that apply to promoters of tax exploitation schemes.
- Improve information exchange between government agencies as well as professional representatives on potential misconduct.
- Extend whistleblower protection for those who wish to disclose alleged misconduct to the TPB.
- Enable enhanced TPB investigations and improve transparency of tax practitioner misconduct on the TPB public register.

Government consultations

The next phase of the Government response is a suite of consultations that focuses on proposals to further strengthen the regulatory framework and the broader system that tax practitioners operate in.



Sanctions regime



New proposed sanctions include:

- criminal penalties for unregistered tax practitioners
- broader and increased civil penalties in the TASA
- an infringement notice scheme attached to the civil penalty regime
- enforceable undertakings regime
- interim and contingent suspensions.

New proposed Codes obligations



- Criminal penalties for unregistered tax practitioners.
- Upholding and promoting the ethical standards of the tax profession.
- False or misleading statements to the TPB and ATO.
- Conflicts of interest in dealings with government.
- Maintaining confidentiality in dealings with government.
- Keeping of proper client records.
- Ensuring tax agent services are provided competently.
- Quality assurance and other internal controls.
- Keeping your clients informed of all relevant matters.

Future program



- Tax practitioner registration requirements.
- Penalty regime that applies to promoters of tax schemes, and penalties applicable to practitioners who make false and misleading statements to the Commissioner of Taxation.
- The ATO and TPB's respective investigation and information gathering powers.
- Emerging fraud and systemic abuse of the tax and superannuation systems.
- Secrecy provisions that restrict information sharing by government bodies.
- Use of legal professional privilege in Commonwealth investigations.
- The regulation of consulting, accounting and audit firms.

Working collectively



- Protecting the paradigm that tax practitioners are in a privileged and trusted position in the community.
- There are many stakeholders in the tax profession and the tax system.
- Collective role to ensure the tax profession understand, adhere and promote their ethical obligations.



Questions

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