



Australian Government



TAX
PRACTITIONERS
BOARD

Tax time tips session: client verification and engagement letters

Presented by:

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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

- ✓ Verifying a client's identity
- ✓ Evidence needed
- ✓ Document verification checks
- ✓ What is an engagement letter
- ✓ Why we recommend engagement letters
- ✓ What to include in an engagement letter
- ✓ When to use an engagement letter
- ✓ Scenarios
- ✓ Q&A

Why client verification is important



- Taking steps to verify your clients' identity is important to protect:
 - your business
 - the Australian community; and
 - our tax and superannuation systems.
- This is especially relevant with remote working and reliance on technology as identity theft has increased.

Relevant TASA provisions



If you fail to take appropriate POI steps you may breach:

- Code item 1 – acting honestly and with integrity.
- Code item 7 – ensuring tax agent services are provided competently.
- Code item 9 – taking reasonable care to ascertain a client’s state of affairs.
- The fit and proper requirement.
- Section 50-20 of the TASA – making statements or lodging documents with the ATO that are false, incorrect or misleading.

Minimum requirements – individuals



- We expect you to undertake POI prior to providing services.
- For individual clients, you need to verify the client's full name and either their residential address or date of birth.
- For individual clients using a representative, you need to verify:
 - both the client's and their representative's full names and either their residential addresses or dates of birth; and
 - the authority of the representative to engage you on behalf of the client.

Minimum requirements – non-individuals

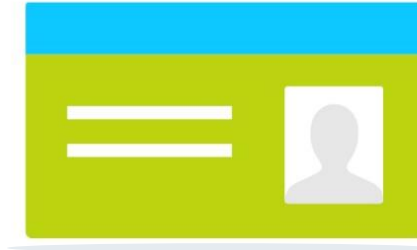


For non-individual clients with an individual representative verify the:

- Representative's full name and either their residential address or date of birth.
- Non-individual client's full name and either its ABN, ACN or any other details that will help to assess their identity.
- Authority of the representative to engage on behalf of the non-individual client.

Evidence to validate a client's identity

- For individual clients and representatives, one primary photo ID will be sufficient.
- If there is no photo ID, both a primary non-photographic ID and a secondary ID will need to be sighted.



Evidence to validate a client's identity



- Primary non-photographic ID will include a:
 - birth or citizenship certificate
 - pensioner or health care card
- Secondary IDs could include a:
 - medicare card
 - council rates notice or utilities bill
 - government agency notice
 - a letter from a school for under 18s
 - electoral roll details

Evidence to validate an individual representative



- To verify the authority of individual representatives, use an enduring power of attorney or a letter of authority.
- To verify a parental or guardianship relationship, you can sight a:
 - birth certificate
 - adoption paper
 - court order
 - letter of authority; or
 - signed doctor's letter.

Evidence to validate a non-individual representative



Documents can include:

- board meeting minutes documenting the appointment
- verbal authority from an existing authorised representative or officeholder
- ABR details
- employment contract indicating position
- website information or other corporate or organisational documents where the representative is clearly identified as holding a relevant role.

Document verification checks

- When sighting documents ensure the photo matches the details of the client and/or their representative.
- Make sure the name, address and date of birth all match the information provided.
- Where you have followed ATO methods, you should generally meet our requirements too.



Electronic and remote verification



- We strongly recommend you don't use email for communicating sensitive information, unless you use an encryption or a password.
- Use secure websites, online mailboxes or messaging.
- When engaging remotely use webcam or videoconferencing to sight documents – record a note of the checks.
- In circumstances where you engage with clients online and without a visual medium, refer to the ATO's approved methods.

Identifying discrepancies



- If you identify discrepancies, you should:
 - ask additional questions
 - ask for documentation or evidence; or
 - see if you can independently verify the information.
- If you are still unable to verify or are not satisfied, you should decline the engagement.
- You should also consider notifying us or other relevant authorities.

Clients without conventional identity documents



- Take a flexible approach if a client doesn't have standard ID documents, for example if they:
 - come from remote areas
 - have documents that have been destroyed
 - came to Australia as refugees; or
 - have identity documents that have recently expired.
- Maintain records outlining the client's circumstances and details of the steps you took.

Well-established clients

Assess the need to conduct POI checks on well-established clients by considering:

- The extent of your relationship.
- The scope of services provided.
- How the engagement and interactions will take place.
- Is the client or their representative requesting a change?
- Has there been a change in circumstances?
- Has there been any change in the relationship?
- Whether there has been continuity in the engagement.
- Any requirements of the tax practitioner's professional association or AFS licensee.

Poll 1



What records should you keep as evidence to show you've undertaken POI checks?

- > Date and time the POI checks were done
- > Type of identification documents sighted
- > How the documents were sighted
- > Who performed the checks and their position within your practice
- > All of the above
- > None, this isn't required

Record keeping

- We do not require you to keep copies or originals of IDs.
- We do require a record for POI checks done, including:
 - Date and time the checks were done.
 - Type of IDs sighted.
 - How the documents were sighted – in person or electronically.
 - Who performed the checks.
 - Confirmation that the IDs were clear.

Case study 1

- A tax agent, engaged a client online without undertaking POI checks.
- After lodging the client's tax return, the ATO contacted the agent advising the identity of the taxpayer his client claimed to be had been compromised.
- The agent continued to lodge tax returns on the taxpayer's behalf.
- They breached:
 - Code item 1 – honesty and integrity.
 - Code item 7 – provide services competently.
- We suspended their registration for 6 months and issued orders.

Case study 2



- Mr Kim, a tax agent was asked to prepare 79 tax returns based on information provided by representatives he had not met.
- The documents were false and resulted from identity theft.
- Many of the returns lodged included irregular claims which should have been identified.
- Mr Kim breached multiple Code items and subsection 50-20 of the TASA.
- We terminated his registration imposing a 3-year ban.
- The Federal Court also ordered him to pay \$4,000 and TPB's costs.

Poll 2



Are you currently using engagement letters?

- > Yes, I use them for all my clients.
- > Yes, but I only use them for some of my clients.
- > No, I don't use engagement letters for any of my clients.

What is an engagement letter?



An engagement letter is the starting point in the ongoing communication between you and your client. An engagement letter:

- provides a mutual understanding
- clarifies the responsibilities of the tax practitioner and the client
- confirms the appointment of the tax practitioner.

Why use an engagement letter?



Engagement letters are not compulsory, but they can assist you to:

- establish a clear understanding of the engagement
- comply with your obligations under the Code
- maintain an ethical practice
- ensure you provide professional service
- avoid disputes about fees and the scope of work to be completed.

Are engagement letters required by law?

- We highly recommend the use of engagement letters, but they aren't a specific requirement of the Code in the TASA.
- However, our view is that engagement letters are an important and effective tool that can be used to assist you in meeting the requirements of the Code more generally.



When to issue an engagement letter

- When you engage a new client, would be the best time to send an engagement letter however, it's also important that existing clients always understand the terms of an engagement.
- So, whenever there is a change in the terms, it's important to update your engagement letters.



What to include in an engagement letter



An engagement letter may include:

- a description of the work to be done
- how much it will cost
- confidentiality and disclosing information to third parties
- record keeping and storage arrangements
- your responsibilities as the tax practitioner
- how you manage tax refunds
- your name and registration number.

Engagement letter resources



- We cannot provide templates or examples of engagement, but many recognised professional associations do.
- We have lots of resources to help keep on top of the latest information, including our:
 - website tpb.gov.au
 - social media
 - free webinars
 - YouTube channel
 - monthly newsletter – eNews.

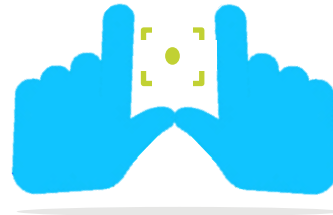
Using technology



- More and more tax practitioners are using cloud computing to perform their work.
- Cloud computing can be used for a range of purposes, such as:
 - information storage
 - lodgement of returns
 - digital signatures
 - client information portals; and
 - practice management software.

Mitigating scope creep

- By setting out your fees and how they are calculated up front, you and your client have an agreed understanding.
- It's important your clients always understand the terms of an engagement. Whenever there is a change it's important to update your engagement letter.
- Doing this annually can reinforce the terms of your engagement.



Poll 3



- > Mark, a registered tax agent, receives a tax refund on behalf of his client, Amanda.
- > The money is deposited directly to Mark's trust account.
- > In past years, Mark had deducted his professional fees from the refund money and then forwarded the balance to Amanda.
- > Mark has not discussed the arrangement with Amanda this year, but they have an implied agreement.

Should Mark have asked Amanda to sign an engagement letter?



Questions

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