



Australian Government



# Upholding and promoting ethical standards and managing conflicts of interest and confidentiality with government

**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](https://tpb.gov.au/webinar-hub)

# What we will cover today



- ✓ Government reform
- ✓ New Code obligations
- ✓ Transitional arrangements
- ✓ Our consultation process
- ✓ Upholding and promoting the ethical standards of the profession
- ✓ Managing conflicts of interest when undertaking activities for government
- ✓ Maintaining confidentiality in dealings with government
- ✓ Panel and Q&A

# New legislation



# Government reform



- The additional obligations are built on existing principles of the Code.
- They aim to strengthen integrity and accountability.
- You are likely already complying with these new obligations. If not, you will have time to adjust and meet best practice.
- We'll implement these changes in a pragmatic and practical fashion.

# Background



- A 2019 independent review recommended a legislative instrument power to supplement the Code.
- On 6 August 2023, the government announced a significant package of reforms, including a provision for the Minister to create new obligations under a legislative instrument.
- The provision allows the Minister to act quickly to expand the Code if there is a new or emerging issue.
- Eight additional Code obligations have now supplemented the Code to reinforce high professional and ethical standards.

# New Code obligations



- Upholding and promoting the ethical standards of the tax profession.
- Requirements relating to false or misleading statements.
- Managing conflicts of interest when undertaking activities for government and maintaining confidentiality in dealings with government
- Obligation to keep proper client records of tax agent services

provided.

- Supervision, competency and quality management under the *Tax Agent Services Act 2009*.
- Keeping your clients informed.



The obligations align with the existing 5 key principles in the Code and leverage material of other existing bodies, such as the APES Board.

# Transitional approach



- On 8 October, the government amended the Determination to clarify the intent and scope of the new obligations.
- The new Code obligations commence on:
  - 1 July 2025 – for tax practitioners with 100 or less employees as at 31 July 2024, including new tax practitioners (with 100 or less employees) that register between 1 August 2024 and 30 June 2025 inclusive; and
  - 1 January 2025 – for any other tax practitioners.



# Consultation



## Public consultation

- We've released our draft information sheets for public consultation, with the aim to finalise in December.
- Provide your feedback to help shape the final guidance.
- Feedback should be emailed to us by **21 November** at [tpbsubmissions@tpb.gov.au](mailto:tpbsubmissions@tpb.gov.au).
- We'll consider all feedback before we finalise our guidance.



**Upholding and promoting the ethical standards of the tax profession (s10)**



# Upholding integrity and standards (s10)

Registered tax practitioners, independently and in cooperation with each other, must:

(1)  
Uphold  
and  
promote  
the Code

(2)  
**Not** engage in  
conduct that may  
undermine public trust  
and confidence in the  
integrity of the tax  
profession or tax  
system

(3)  
**Not** engage in conduct that may undermine the collective work of tax practitioners, as a profession, to uphold and promote:

- the Code
- public trust and confidence in the integrity of the tax profession and system
- each member of the profession being held accountable for their own conduct.

## Services provided collectively

Tax practitioners should promote a tax profession with high ethical values that does not:

- engage in misconduct
- turn a blind eye to misconduct
- shy away from acting against the misconduct of



# Case study 1 – scenario




- Anne is a director of tax agent company, Crunch the numbers.
- Her employee, James, advises her of potentially unethical conduct by his supervising agent, Lachlan.
- James claims Lachlan is providing services to clients without verifying their identities and is exaggerating claims on clients' returns.
- James had raised these concerns previously with Lachlan, but they were disregarded.
- Anne finds evidence of the claims and advises James not to question Lachlan's work, to refrain from pursuing this matter, and that it would be detrimental to his future career in the company if did so.
- She also deletes her email communications about this matter.

## Case study 1 – outcome



- Given the company did not hold its supervising tax agent, Lachlan, accountable for his actions they have undermined the collective work of the tax profession.
- Crunch the numbers failed to remove or discipline Lachlan where there were reasonable concerns about potential unethical conduct relating to his work.
- They asked not to be informed of and did not make appropriate records of information relating to potential breaches of the Code and destroyed evidence relating to potential breaches.
- They also threatened adverse action against James when he raised concerns about potentially unethical conduct.

**Managing conflicts of interest when  
undertaking activities for government  
(s20)**





## Managing conflicts of interest with government (s20)

If a tax practitioner undertakes activities, in a professional capacity, for an Australian government agency, they must:

(1)

Identify and document  
any material conflicts of  
interest

(2)

Disclose the details of  
any material conflict of  
interest to the agency

(3)

Manage, mitigate and,  
where appropriate and  
possible avoid material  
conflict of interest

## Case study 2



- John, a tax practitioner and expert on the Australian superannuation law is engaged by a government agency to provide advice in relation to a proposed superannuation reform package.
- The proposed reforms are intended to apply to all superannuation funds and John is a passive member of 123 Super Fund.
- John identifies there is a conflict of interest given he is a member of a superfund that will be impacted by the proposed reform package.
- However, he assesses this conflict as one that is not material.
- Nonetheless, John documents and discloses the conflict to the government agency.
- In this situation, John has met his obligations.

# **Maintaining confidentiality in dealings with government (s25)**

# Confidentiality in dealings with government (s25)

Unless there is a legal duty to do so, a tax practitioner must:

(1)

Not disclose information received  
(directly or indirectly) from an  
Australian government agency

(2)

Not use information received from  
an Australian government agency  
for personal advantage (including  
personal advantage to others)

## Disclosure to a third party



- You may not disclose information to a third party without the government agency's agreement or if there is a legal duty to disclose the information.
- If there is no legal duty to disclose the information you will need to consider if disclosure was authorised by the government agency and that any further disclosure was done consistently with the agency's authorisation.
- You should use your professional judgment to assess if the disclosure of the information was authorised, having regard to the circumstances.



Prior to any disclosure, clearly inform the government agency there will be a disclosure and obtain their permission.

## Case study 3



- Thomas, a registered tax agent and tax partner at a mid-sized accounting firm is invited to a set of confidential discussions led by Treasury in relation to a proposed increase to tax rates that would largely impact high-wealth individuals.
- The proposed increase would impact a large portion of his firm's client base.
- The invitation to participate sets out the proposed terms of the engagement, including to whom information may be disclosed.
- Throughout the engagement, Thomas discloses information to the 2 partners as authorised by Treasury and no further disclosure of the information occurs.

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