



12 February 2024

Tax Practitioners Board
GPO Box 1620
Sydney NSW 2001

via email: tpbsubmissions@tpb.gov.au

Dear Sir/Madam,

Exposure Draft TPB Information sheet TPB(I) D51/2023: Code of Professional Conduct – Employing or using a disqualified entity in the provision of tax agent services without approval

Exposure Draft TPB Information sheet TPB(I) D52/2023: Code of Professional Conduct – Prohibition on providing tax agent services in connection with an arrangement with a disqualified entity

The Institute of Public Accountants (IPA) welcomes the opportunity to make a submission in relation to Exposure Drafts TPB Information sheet TPB(I) D51/2023 (D51) and TPB Information Sheet TPB(I) D52/2023 (D52).

The IPA is one of the three professional accounting bodies in Australia, representing over 50,000 members and students in Australia and in over 100 countries. Approximately three-quarters of the IPA's members work in or are advisers to small business and small to medium enterprises.

Our main points we wish to make are as follows:

The IPA supports the guidance provided by TPB in D51 and D52 in relation to the new obligations of tax practitioners under subsections 30-10(15) and 30-10(16) of the *Tax Agent Services Act 2009* (TASA) (Code Item 15 and Code Item 16).

Further guidance required on the range of entities used or employed by a registered tax practitioner

Paragraph 11 of D51 points to paragraph 3.30 of the Explanatory Memorandum relating to *Treasury Laws Amendment (2023 Measures No. 1) Bill 2023*. Both documents acknowledge that there is a broader range of entities who are likely to constitute entities that are 'used' or 'employed' by a registered tax practitioner to provide tax agent services beyond the more common and non-exhaustive list which includes employees, associates, and contractors.

Further guidance should be provided in D51 to assist practitioners in understanding the scope of this obligation. For example:

- (i) where a practitioner uses work by an employee/contractor of a client or the client themselves, where one of those parties is a disqualified entity, does Code Item 15 apply?
- (ii) what steps need to be taken in relation to outsourcing and/or offshoring arrangements?
- (iii) does Code 15 apply to employees/contractors of affiliate firms overseas that provide input to a multinational taxation assignment relating to a client based in Australia?

TPB Register – Availability of information about tax agent misconduct

We note that the TPB has limited powers to publish information on the TPB Register particularly related to the 12-month time limit for disclosing when a tax practitioner has had their registration terminated or details imposed on an entity (other than a written caution or termination). This creates an information vacuum where practitioners and the public are not privy to information held by TPB relating to disqualified entities, especially in circumstances where practitioner misconduct has been identified more than 12 months ago, but less than 5-years ago.

To assist practitioners with their assessment of employing or using a disqualified entity, TPB should:

- enhance the TPB Register to include a disqualified entity flag or establish a separate register that more readily identifies a disqualified entity.
- where relevant, alert practitioners to the fact that search results on the TPB Register may be limited and provide further guidance to practitioners on the factors that need to be addressed to satisfy their obligations under Code Item 15 and Code Item 16.

We note the *Treasury Laws Amendment (Tax Accountability and Fairness) Bill 2023* was introduced to Federal parliament on 16 November 2023 which proposes amendments to require additional information to be published on the TPB Public Register. Further, if passed, these amendments will commence no earlier than 1 July 2024. To the extent that limitations remain, D51 and D52 may require further guidance to be provided to practitioners.

Arrangements that are only administrative in nature

To illustrate the scope out provisions for arrangements that are only administrative in nature, where a disqualified entity provides peripheral services to assist a registered tax practitioner, it would be useful for both D51 and D52 to include examples that would be considered to fall within these provisions and those that would not.



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If you have any queries or require further information, please don't hesitate to contact Tony Greco, General Manager, Technical Policy, either at tony.greco@publicaccountants.org.au or mobile: 0419 369 038

Yours sincerely

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