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14 October 2019

Dear Mr James

Review of the Tax Practitioners Board 2019 – the TPB’s submission

1. The Tax Practitioners Board (TPB) is pleased to provide you with our submission in relation to your review of the TPB and the *Tax Agent Services Act 2009* (TASA). The TPB would like to acknowledge your collaborative approach and the regular engagement between yourself and the Secretariat review team.
2. When announced in March 2019, the TPB welcomed the review and your final report is a great opportunity to enhance the regulatory regime for providers and consumers of tax services.

An explanation of the TPB’s views

Independence of the TPB from the ATO

3. Chapter 3 of the Discussion Paper outlines the Review’s preferred option to strengthen the TPB being, and being seen to be, independent from the ATO. The TPB strongly agrees with the view in the Discussion Paper that this issue is one of perception and reality, noting that the TPB is entirely independent in its decision making.
4. The Discussion Paper draws upon advice from *The Ethics Centre* which observes that:
 - The TPB must be entirely independent and should control its own budget
 - It should also have the formal power of appointment of its executive and staff who should work exclusively under the Board’s direction
 - Any staff (whether employed directly or by secondment) should not have any residual obligation to any other organisation
 - The TPB should have an appropriate means of induction for its staff such that they understand the importance of being independent

5. Further, the preferred preliminary view of the review is to establish the Chair of the TPB as the relevant *accountable authority* responsible for its own budget and reporting. However, the majority of the staff would be ATO secondees and the ATO and the TPB would operate under a shared services arrangement.
6. The TPB largely agrees with this preferred preliminary view, noting that:
 - The structural framework that underpins the TPB would benefit from being enhanced.
 - The TPB is of the view that its funding allocation should be determined directly by Government, based on TPB resource bids, and allocated to the TPB directly via a 'special account', rather than as an allocated proportion of a broader ATO budget.
 - The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) should be amended to allow independent statutory authority holders, such as the Chair of the Board, to certify the accuracy of the TPB's performance reporting, including the annual report, annual performance statement and corporate plan.
7. In relation to the engagement of TPB staff, the preferred TPB view is that:
 - The CEO/Secretary is a statutory appointment, where the appointment (or non-appointment) decision is one made by the Chair/Board. As a statutory office holder, the CEO/Secretary will be a person who holds a position to which duties and functions are specifically assigned in legislation (as opposed to people who carry out the duties and functions assigned to a body established in legislation).
 - All TPB staff, excluding the CEO/Secretary, would be ATO employees on formal secondment to the TPB. For reasons of economic and administrative efficiency and staff culture, the TPB is not in favour of those staff of the TPB who report directly to the CEO and are responsible for decisions regarding sanctions and litigation being employees of the TPB rather than ATO secondees working for the TPB. The TPB is of the view that arrangements, such as an enhanced memorandum of understanding, a formal secondment arrangement and staff executive instructions, could be put in place to ensure that these staff are independent of the ATO.
 - The TPB is supportive of having the staff of the TPB located in ATO offices as this represents a significant saving in location and infrastructure costs and facilitates a culture of collaboration and consultation.

Membership of the Board

8. The Board considers that the appointment of Board members is a matter for Government and the Board can advise the Minister if requested. It was also further noted that the Government should have sufficient flexibility to make appointments to the Board as it sees appropriate. As such, the Board is not supportive of the legislation prescribing Board members being appointed from certain industries, groups or representative bodies, as these should be decisions for the relevant Minister, taking in consideration the environment at the time.
9. Further, the Discussion Paper put forward an option to have an ATO employee as a Board member. This was not favoured by a significant number of stakeholders, including the ATO, and is not favoured by the TPB, noting the independence issues raised in the Discussion Paper.

Object of the tax agent services regime

10. Chapter 3 of the Discussion Paper also raises the question about the object of the TASA and the tax agent services regime. The TPB maintains its preliminary view as per the Discussion Paper, which is that the objects of the TASA would benefit from being updated to cover the following three inter-related areas. These areas are to support and protect:

- the public, including consumers of tax services;
- tax advisers acting lawfully and ethically;
- community confidence in the integrity of the tax system.

11. While there has been some feedback of the TPB's preliminary view, the TPB is of the understanding that the role of the TPB and the ATO is being 'confused'. In summary, through the TPB's regulation of tax practitioners, we will support and protect the public and their confidence in the tax system.

12. The TPB also agrees with the preliminary views of the ATO which recognise that the ATO and the TPB have separate roles and accountabilities, however their roles are somewhat interdependent, in that the ATO are concerned with protecting the integrity of the tax and superannuation systems, and the TPB are concerned with the integrity of the tax profession who the ATO has observed to have a key role in protecting the integrity of the tax system. A tax profession that is up to date with the relevant laws and provides a high level of service to the public has a positive effect on the integrity of the tax system.

Whole of Government interactions

13. Chapter 2 of the Discussion Paper outlines views in relation to whole of Government interactions. The TPB is highly supportive of your preliminary views, in particular that:

- regulators do not unnecessarily impede the efficient operation of regulated entities;
- communication with regulated entities needs to be clear and effective, and compliance and monitoring approaches should be streamlined and coordinated; and
- effective information sharing between government organisations is needed to reduce the number of government interactions for practitioners and consumers, and to focus compliance and monitoring activity.

14. The TPB maintains its views as outlined in the Discussion Paper and requests that:

- legislative arrangements facilitating the frequency of information exchange, ensuring two-way information sharing and use of this information, is required. Strengthening the information sharing arrangements, through the force of legislation (not just by changing the TASA), will strengthen the relationship between agencies; and
- consistent with the model suggested by Commissioner Hayne, mandatory, rather than discretionary sharing of information, is critical. The TPB is very mindful that the sharing of information between co-regulators was a key observation made by the Royal Commission, and that it ultimately recommended that a law change was required to oblige APRA and ASIC to co-operate, share information to the maximum extent practicable and notify the other whenever it forms the belief that a breach may have occurred.

Whistleblower provisions

15. The TPB raised in the Discussion Paper our concern that the TPB is not considered as an 'eligible recipient' for the purposes of the new whistleblower laws that commenced on 1 July 2019. What this means is that the TPB is unable to receive information from an eligible whistleblower and/or an eligible recipient (such as the ATO) if consent is not provided by the whistleblower. Given the role of the TPB in regulating the tax profession and protecting consumers of tax services, this outcome is anomalous and requires a legislative amendment to allow the TPB to be in receipt of such information. Specifically, such an amendment is necessitated by the following:

a. Assist the TPB's in its regulatory role

- The TPB may need to know a protected whistleblower's identity where the information would assist the Board in administering the TASA, a taxation law.
- A whistleblower may choose to remain anonymous in addition to the protections under the whistleblower regime, however this may hamper further action.
- The TPB's regulatory role would be assisted in a number of ways, including:
 - obtaining further intelligence regarding the nature of a tax practitioner's involvement or culpability in a behaviour;
 - identifying the source or further avenues to discover evidence, independent of that provided by the whistleblower, where the whistleblower's intelligence may direct our enquiries;
 - sharing information or where we have evidence that undermines the whistleblower's assertions or paints a different picture of their involvement
 - by understanding the whistleblower's identity to enable us to undertake a confidential compulsive interview of the whistleblower, affording them the protections of s60-115 of the TASA
 - This may also assist the criminal provisions afforded to the Board under s8AC of the TAA and the Crimes Act and Criminal Code – including those that may have provided false or misleading information to the Board.

b. Provide eligible whistleblowers with protection from administration sanctions

- If the eligible whistleblower is a registered tax practitioner, unless the TPB knows of their identity they will not be able to seek relief if the TPB was to find that they had breached the legislated Code of Professional Conduct. In short, the Board's ability to determine if they are protected under Sch1 item 15 and paragraph 14ZZX(1)(a) will require the knowledge of the tax agent making such a whistleblower disclosure. I note that the EM specifically acknowledges that the person cannot be subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure.
- The Board's ability to regulate their professional and ethical responsibilities in this space would necessitate the Board's knowledge of the disclosure, the disclosing party and if the whistleblower provisions have extended to them.

c. Consistent with the policy objective of the new laws

- The TPB receiving information about those individuals who are eligible whistleblowers is consistent with wider Government policy to combat crime and misconduct through corporate, financial and tax law enforcement. As the Federal regulator of tax practitioners, the TPB necessarily falls within that enforcement group.

A dynamic Code of Professional Conduct

16. Consistent with the preliminary views as contained in the Discussion Paper, the TPB is of the view that the Code should become more dynamic, not necessarily prescriptive, in nature by providing the Board or the relevant Minister with the power to amend and update the Code, through legislative instrument, whilst ensuring that the current principles based approach in the TASA is maintained. This would allow the TPB to deal with any emerging and/or best practice behaviour. The TPB's view is not intended to suggest that the ability to amend the Code would extend to amending the 14 items in the Code that already exist in the TASA.
17. The TPB appreciates the concerns regarding the consultation process that may be deployed when drafting a legislative instrument and notes the *Legislative Instruments Act 2003* encourages appropriate consultation before legislative instruments are made without being prescriptive as to how this is done. Should the TPB be giving such a legislative instrument power, the TPB would ensure that there is significant and timely consultation with all stakeholders, both on possible Code items and the accompanying guidance. Further, the TPB recognises that failure to consult may lead to criticism in the course of parliamentary scrutiny or disallowance or both.

TPB visibility

18. Chapter 4 of the Discussion Paper deals with the issue of community awareness and, in particular, increasing the TPB's visibility. The review's preliminary view is that having the TPB more visible serves to assist tax practitioners in understanding their obligations under the TASA regime and signals to consumers of tax agent services that there is recourse when these services are not provided in accordance with the TASA. Increasing visibility of the TPB will also assist with the problems surrounding unregistered practitioners.
19. The TPB agrees with the review's preliminary view. In particular, the TPB notes that consumers of tax services are largely unaware of their rights when using a registered tax professional or the risks associated with using an unregistered tax professional. Further, given resource and funding limitations, the TPB's approach in supporting consumers has been based on educating (for example, webinars, presentations, website content and information products) and regulating tax practitioners.
20. The TPB also supports the ATO's view that the TPB's registration number should be mandatorily disclosed on certain documentation and outward facing communication products. This approach will assist in raising consumer awareness and protection and the data analytics to assist with the TPB's regulatory and compliance functions.

TPB Public Register

21. Chapter 4 of the Discussion Paper also deals with community awareness through the TPB's Public Register. The Review's view is that, subject to working through any privacy issues, there is a lot of merit in providing additional information on the TPB register concerning any sanctions imposed on practitioners. The TPB strongly agrees with this view.

22. The TPB indicated in the Discussion Paper that it would be beneficial for consumers of tax agent services if the TPB Register provided additional information on registered and unregistered tax practitioners. This could include publishing a wider range of decisions and outcomes on the TPB Register, including more details of reasons for sanctions and termination, publication of cease and desist notices to unregistered tax practitioners, and publication of details relating to rejections of renewal applications. The TPB maintains this view. Additionally, the TPB confirms its suggestion of removing the time limits on how long certain information appears on the Register, for example, termination of a tax practitioner's registration should be retained on the Public Register for a period of more than 12 months.
23. The TPB also suggests that the TASA could also be amended to require company and partnerships to provide details of their firm governance structure. This would then allow the TPB to publish information about who an entity is using to meet their sufficient number requirement and therefore details of the registered tax practitioners who have supervisory roles in ensuring the competence of the tax services being provided.

Qualifications and experience requirements for individuals

24. Chapter 5 of the Discussion Paper deals with the qualifications and experience requirements for individuals and the TPB is of the view, which largely aligns with the views of the Review that:
- While the current framework works well generally, amendments to the framework are appropriate to reflect contemporary practices and ensure:
 - better alignment with existing Government approaches to lift standards and ensure consistency across different professions;
 - a level playing field from a TPB and whole of Government perspective; and
 - sufficient flexibility in relation to the qualification requirements for the TPB to respond to new tax intermediaries that may form part of the regulated population.
25. The concept of relevant experience is a robust and sound model and in the best interests of consumers, however, due to the prescriptive nature of the relevant experience requirements (type and period), there needs to be greater flexibility to allow the TPB to recognise special circumstances, such as a career breaks or maternity leave or non-traditional tax intermediaries.
26. Therefore, before concluding whether the qualification levels should be lifted (for example, degree minimum level qualification for tax agents or diploma minimum level qualification for BAS agents), the TPB recommends that this area would benefit from further review and analysis, perhaps by the TPB, with recommendations to Treasury. A review would:
- confirm what learning outcomes the TPB is seeking to achieve, taking into account community expected standards;
 - take into consideration existing Government approaches to lift education standards and ensure consistency across different professions;
 - review the existing qualifications framework to determine if it is fit for purpose and consistent with the learning outcomes that the TPB is seeking;
 - once completed, determine if the qualification levels should be amended; and
 - determine if there are any gaps arising in relation to course and education providers.

Qualification requirements for companies and partnerships

27. The TPB recommends that the requirements to become registered as a company or partnership tax practitioner are appropriate and no substantial amendment, other than recognising governance arrangements (such as having actual governance and control structures in place) as an eligibility requirement, is required. This amendment is important to ensure that is clear to the TPB, ATO and the public who is accountable for the delivery of tax agent services.

Registration and renewal period

28. In the Discussion Paper the TPB articulated our view to be that, in the interests of tax practitioners, the TPB and Government, it would be beneficial if the registration period (which is currently 3-yearly) was converted to an annual basis. This approach would align with most other requirements affecting tax practitioners, including professional indemnity insurance and association membership. This annual registration would replace the current TPB administrative 'Annual Declaration' process and therefore ensure that the TPB has ongoing and regular visibility as to whether it is appropriate for a tax practitioner to remain registered.
29. The potential to pro-rata the application fee payable would be a matter for Government's consideration.

Tax intermediaries

30. Chapter 5 also details how tax intermediaries could be treated under the TASA. The preliminary view articulated by TPB no longer represents the TPB's view. More specifically, the TPB is now of the view that the current framework to require registration with the TPB (the provision of a tax agent service for a fee or reward) should be retained, however, the TPB should have the ability to declare, via legislative instrument that certain service offerings, despite meeting the definition of a tax agent service, will not be considered to be tax agent services for the purposes of the TASA.
31. In determining whether to make such a declaration, the TPB would be required to consider certain factors including whether the tax agent services being provided are simple or at the fringes, whether there will be another registered tax practitioner involved in the process and/or whether the service provider is otherwise appropriately regulated. In addition, consistent with the legislative instrument process, there will be extensive consultation with all stakeholders. This approach would give the TPB ongoing flexibility to respond to any emerging service offerings.

Fit and proper test

32. The preliminary view of the review in Chapter 5 of the Discussion Paper provides that guidance could be taken from the fit and proper person requirements in other professional regimes and that there may also be scope to adjust the five-year time period built into the fit and proper person requirement under the TASA.

33. The TPB agrees with this and confirms our preliminary view that there should be modifications made to the fit and proper test to include:

- Incorporating the matter of conflicts of interest as part of its consideration as to whether an individual is a fit and proper person including a specific reference to ensuring all personal tax obligations are up to date
- Bolstering the management of personal income tax obligations to include a consideration of the management of the income tax obligations of an individual and the individual's associated entities
- Whether a company or partnership has appropriate governance arrangements in place
- Removing the five-year period referred to in section 20-15 of the TASA and either increase, or remove entirely, the timeframe within which matters can be taken into consideration
- Any other relevant matters that the TPB considers appropriate.

Sanctions

34. The TPB confirms its view that the available suite of sanctions is insufficient in targeting and changing particular registered and unregistered tax practitioner behaviours and that the sanction powers available to the TPB need to reflect a more contemporary and agile sanctions regime. The solutions proposed in paragraph 7.29 of the Discussion Paper are strongly supported by the TPB.

35. In addition to sanction types, the TPB is of the view that the current investigation powers in the TASA could be improved. In particular:

- the 6-month timeframe to conduct a formal investigation; and
- the requirement to commence a formal investigation to enliven its powers to apply a sanction for a breach of the Code of Professional Conduct can create difficulties.

Unregistered tax practitioners

36. The TPB confirms its views in the Discussion Paper. In particular:

- Taking into account the restrictions in the TASA and available funding, the TPB's existing regulation of unregistered tax practitioners has been limited.
- Appropriate law change and funding allocation would enhance the TPB's effectiveness to regulate the unregistered population. Currently under the TASA, the only compliance action available to the TPB to deal with unregistered tax practitioner behaviour is to apply to the Federal Court of Australia for the imposition of a civil penalty and/or injunctive relief. As this process is time consuming and costly, it is not appropriate for this to be the only remedy for a range of unregistered tax practitioner behaviour, much of which is very high risk and poses a threat to the profession, the Commonwealth and the public.
- Noting that the object of the TASA is to protect consumers of tax services, the TPB is of the view that it is important that the TASA allows the TPB to address inappropriate behaviour quickly and to publish the details of individuals and entities who should be registered with the TPB but are not and are therefore operating illegally. This could be achieved through the TPB being able to issue infringement notices and enforceable undertakings, which would then be published on a register, searchable by the public. As an example, ASIC have an Enforceable Undertakings Register on their website.

Safe harbour

37. The ATO has proposed that the administrative penalties framework (or something similar) could be used to apply administrative penalties on tax advisers, where the taxpayer has a tax shortfall owing due to the tax adviser's fault, which would be more culpable than failure to take reasonable care.
38. Subject to more details being provided, the TPB generally supports the ATO's proposal that the ATO's administrative penalty framework could be used to apply administrative penalties on tax intermediaries. The TPB also emphasise that the penalty framework would be better administered by the ATO, with appropriate timely referrals to the TPB.

Tax (financial) advisers

39. The TPB supports any steps taken to reduce the regulatory burden on tax practitioners. One option that could be considered is that if a financial adviser needs to be registered with the TPB, the licensing/registration with ASIC could serve as a substitute for meeting TPB registration requirements.
40. To demonstrate the regulatory overlaps, the following brief summary is provided:
- Financial advice in Australia is more generally regulated by ASIC and APRA. ASIC registers Australian Financial Services licences who in turn have authorised representatives providing financial advice to their customers.
 - In 2014, the scope of the TASA was expanded to also regulate tax (financial) advisers (TFAs), that is financial advisers who provide tax advice in the context of financial advice. Some 20,000 TFAs are now part of this TASA regime, in a business as usual state, administered by the TPB.
 - The Financial Standards and Ethics Authority (FASEA) was implemented in 2017 to enhance standards and ethics for financial advisers. FASEA has introduced a new code of ethics and educational standards for financial advisers, much of which overlaps with the TPB's requirements.
 - The enforcement of the code of ethics will fall, from 1 January 2020, on 'Code Monitoring Bodies' (CMBs) with which financial advisers must be registered. CMBs will work with ASIC to monitor, regulate and sanction financial adviser conduct, as required.
41. The table below highlights the significant regulatory burden that TFAs are subject to:

Standard setting role	Registration role	Complaint handling role	Investigatory role	Disciplinary role
TPB	TPB	TPB 	TPB	TPB
ASIC	ASIC	ASIC 	ASIC	ASIC

Standard setting role	Registration role	Complaint handling role	Investigatory role	Disciplinary role
APRA		APRA 	APRA	APRA
Professional bodies*	Professional bodies*	Professional bodies* 	Professional bodies*	Professional bodies*
FASEA				
New disciplinary body#	New disciplinary body#	New disciplinary body# 	New disciplinary body#	New disciplinary body#
		AFCA 	AFCA	AFCA
		Code monitoring body ^ 	Code monitoring body ^	Code monitoring body ^
		IGT 	IGT	

* As at 31 January 2019, 9,019 individual TFAs have indicated that they are members of professional association (70% of all individual TFAs)

A new disciplinary body was a recommendation arising from the Banking Royal Commission

^ Code monitoring bodies are bodies approved by ASIC to administer the Code of Ethics (as developed by FASEA)

 Consumer complaint entry point

42. Further, the TPB recommends that that the final report should not make any material changes to the existing TFA regulatory framework and instead shape the future regulation of TFAs as part of the Royal Commission’s Recommendation 2.10, ‘A new disciplinary system for financial advisers’. This approach aligns with the Treasurer’s announcement on 19 August 2019 and a [joint media release](#) with the Assistant Minister for Superannuation, Financial Services and Financial Technology on 11 October 2019 that, in relation to Recommendation 2.10, legislation is to be consulted on and introduced by end-2020. Given this timeframe being approximately 15 months away at the latest, it would not be appropriate to make significant changes that would impact on how TFAs are regulated in the short to medium term only.

Wider review of professional services

43. In addition to our recommendation to hold off on the consideration of TFAs in the tax agent services regime, the TPB recommends that there is wider consideration of regulating professional services more generally. The regulation of professional services in Australia involves a complex system of overlapping regimes, at state, territory and Commonwealth levels. As an example of this complex system, states and territories have legal services laws that restrict the provision of legal advice to qualified legal practitioners. These laws are generally supported by state/ territory based legal services regulators. The TASA provides an exception to these legal services laws, allowing registered tax practitioners to provide federal tax services across Australia.
44. In broad terms, the different regimes have common purposes including the protection of consumers, ensuring high professional and ethical standards, and supporting the integrity of the system. However, the regulatory burden may weigh heavily on the consumers of these services. After proper analysis, by a qualified body like the Productivity Commission, reform of this complex system would support improved social and economic benefits for all Australians.
45. The complex framework for professional regulation in Australia has been noted in submissions related to the TPB and TASA. In particular, stakeholders have called for the removal of red tape to reduce the burden on professionals, the cost to consumers and to free up economic capacity for Australia. For example, questions have been raised about the overlapping roles of tax practitioners, lawyers, accountants and financial advisers in providing retirement advice, involving tax, financial, legal, superannuation, and pension issues. Consumers might expect a simple 'one stop shop' to obtain this advice, but the systems of law and regulation may not enable this to occur. Some professionals may seek multiple registration points, or operate as multi-disciplinary firm, so as to improve client services. Other intelligence suggests that some advisers 'cover the field' and provide advice on all these matters, notwithstanding that they do not have each of the requisite registrations.
46. In addition to government agencies, many professionals are members of a relevant association that also sets standards for conduct and regulate professional behaviour. For example, around 75% of all tax practitioners appear to be members of one or more professional associations. Some associations are more developed and active in the co-regulation of their professional membership than others.
47. The TPB is supportive of these red tape reducing goals. However, this is a major public policy issue that may be difficult to fully consider in this Review, having regard to its terms and scope, resourcing and timeframes. Therefore, it may be useful to highlight to Government this opportunity for further review, by a suitable body like the Productivity Commission. Reform of the complex regulation of professional services in Australia would provide enhancements for consumers, improve confidence in system integrity, and drive valuable macro-economic reform for all Australians.

Relationships with the professional associations

48. The TPB is of the view that tax practitioners and their associations are key stakeholders for the TPB, including the TPB liaison, collaborative development of policy guidance and comment and capability development. However, the TPB is of the view that it is no longer suitable for the TPB to recognise professional associations. Recognition provides the voting members of recognised associations with an additional avenue to become registered as tax practitioners. If this registration avenue was to be removed, the TPB would support that those tax practitioners who had been registered under the pathway relevant to their recognised professional association should be permanently grandfathered into TPB registration.
49. The TPB has limited capacity/capability to test and assess whether a recognised professional association complies, both initially and in an ongoing sense, with the requirements to become recognised. In circumstances where an association lacks or loses appropriate governance, the TPB has little it may do by way of remediation. However, in these situations where the association is subject to little oversight, the TPB could be seen as a regulator and thereby carry substantial reputational risk. While carrying this risk, the TPB charges no fees to associations for this recognition. By way of contrast, the Professional Standards Council, which provides limited liability services to professionals by registering their associations, charges fees to associations in the order of \$3 to \$4 million per year.
50. Ending the practice of 'recognising' professional associations also addresses one aspect of independence, in relation to the perception or risk that the TPB suffers from 'regulatory capture'.
51. It is anticipated that the current liaison and cooperation with professional associations would continue and indeed expand, for example, via improved sharing of intelligence and risk assessments, coordination of investigations/ sanctions, and a joint approach to the conduct of practice reviews.

Tax Clinics

52. Chapter 5 articulates the current position in relation to tax clinics, in particular, there not being a requirement to be registered with the TPB because whilst these tax clinics are providing a tax agent service, it is not being done for a fee or reward. The TPB reiterates this position, noting that the tax clinics are currently operating under a 12-month trial basis.

Legal professional privilege (LPP)

53. The TPB understands that the ATO's preferred outcome is for the Report to recommend that a legislative provision be introduced for tax administration akin to what is contained in the *ASIC Act 2001*. The TPB supports this approach.
54. To also ensure that the TPB has the equivalent ability to deal with LPP issues in the future, the TPB seeks similar provisions be adopted in the TASA and we do not see the benefit in specific amendment to the Code to address LPP issues.

Future landscape

55. Chapter 12, which articulates consideration for the future, raises some good questions about the future of the tax profession. The TPB is of the view that to ensure the ongoing effectiveness of the tax practitioner profession and the tax agent services regime, it is important that the changing nature of the tax profession is recognised and taken into consideration. This requires a legislative framework that is flexible and capable of being contemporary so that it can meet changing needs.

Other matters

56. The TPB has determined a range of specific legislative amendments to the TASA that we anticipate would improve the overall effectiveness of the tax agent services regime. The TPB suggests that as part of the final report, it would be beneficial if there was a recommendation to also address a number of other legislative anomalies that have been identified by the TPB. These include:

- treating, in certain cases, surrender of registration and rejection of renewal applications, as a termination of registration;
- amending to the civil penalty provisions to extend the false and misleading statement civil penalty to include the TPB, not just the Commissioner of Taxation;
- reviewing the types of conditions that can be imposed on registration;
- 'automatic' termination of TPB registration when an TFA has been banned by ASIC; and
- clarifying what details a registered tax practitioner must notify the TPB of when there is a 'change in circumstances'.

57. The TPB would welcome the opportunity to further discuss the above items at your earliest convenience.



Ian Klug AM

Chair

Tax Practitioners Board