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AMENDED TAX AGENT SERVICES ACT2009

As our most significant statement in relation to the proposed changes we comment as follows:

We support the principle expressed in Exposure Draft of the Amendments to the Tax Agent Services Act 2009, Specifically

19 After subsection 90-10(1)

Insert:

- (1A) The Board may, by legislative instrument, specify that another service is a **BAS service**.

As the Professional Association and Recognised BAS Agent Association representing the largest number of registered BAS Agents in Practice we note that this amendment is required to bring logical progress in a structured manner to the inclusion of necessary services into the legal definition of a BAS Service.

There are a number of current real world duties that businesses expect of Registered BAS Agents that need to be included in the definition of BAS Services and we anticipate that this amendment supports their inclusion.

1. The ascertaining of an obligation or liability of an entity, the provision of advice to an entity, the provision of information to the Commissioner in relation to the Superannuation Guarantee laws and the Superannuation Guarantee Charge laws
2. The ascertaining of an obligation or liability of an entity, the provision of advice to an entity, the provision of information to the Commissioner in relation to the Construction Industry reportable payments system (which requires reporting in July 2013)

We see that by allowing the TPB to be able to respond to changes to other laws in this manner will also be more appropriate.

Please contact us if you would like any further information in relation to the effects of this regime on Agents.

Secondary items

AS TO BAS AGENTS we make the following comments

A/ To obtain a registration or renew an agents registration they must “maintain, or will be able to maintain professional indemnity insurance.....”

- We observe that this is a tightening and clarification of the law in relation to the requirement for a registered BAS Agent to have PII.
- However we see that the terms “will be able to maintain...” leaves a door open that just because I will “be able to” doesn’t mean I will.
- We propose that you consider further definitive law that states that “registration of an agent will not commence until the professional indemnity insurance that meets the Boards requirements is obtained and registration is only valid while the required Professional Indemnity Insurance is maintained.

B/ when an Agent renews their registration they must have completed the required Continuing Professional Education requirements (15 hours per year or 45 in 3 years)

- We observe that this is a tightening and clarification of the law in relation to the requirement to undertake CPE. We support this technical change.
- We also seek from the TPB assurance that the CPE undertaken by all agents remains CPE that is “relevant” to the tax/BAS services provided by the agent. We are concerned that some Agents only undertake CPE in non tax related areas.

FINANCIAL PLANNERS ARE BEING ADMITTED as “tax (financial product) advisers”

1/ Financial Planners are being admitted and called “tax (financial product) adviser” referred to as “TFPA” hereunder

- ICB would prefer the name “Financial Product Tax Adviser”. We are concerned that very quickly they will adopt the term “tax adviser” which implies a greater range of services.

2/ in relation to what is being called “tax advice (financial product) services”

- ICB would prefer the term “Financial Product Tax Advice Services”

3/ We concur with the policy expressed that BAS Agents cannot do TFPA work, a TFPA cannot do BAS Agent work, a Tax Agent can do both (but only financial planning work if they are also a registered financial planner with ASIC). However, what about BAS Agents who are also Financial Planners? Our reading of this law would require them to register as both a BAS Agent and then also as a Tax (Financial Product) Adviser.

Please contact us to discuss any aspect of this submission

Yours faithfully

John Birse
Director