



Law Council
OF AUSTRALIA

Business Law Section

23 October 2019

Mr Keith James
Hall & Wilcox
Level 11, Rialto South Tower
525 Collins Street
MELBOURNE VIC 3000

By email: Keith.James@hallandwilcox.com.au

cc: Nick Westerink, The Treasury, TPBreview@treasury.gov.au

Dear Keith,

Review of the TPB – Draft Tax Practitioner Governance Charter and Forum

We refer to our earlier submission of 6 September 2019 in response to the July 2019 discussion paper, and to the subsequent discussions concerning the possible establishment of a Charter of Tax Practitioner Governance (**Charter**) and an associated committee to assist with its formation, implementation and ongoing application (the **Forum**).

The Taxation Committee of the Business Law Section of the Law Council of Australia (**LCA**) (the **Committee**) commends the Review panel for suggesting the creation of the Charter and the Forum and supports the concept of the Charter and the Forum as indicated hereunder.

Putting taxpayers first

As discussed in the Review, and by both submissions provided by the Committee and the work of the St James Ethics Centre, the Australian tax system is intended to work as follows:

- taxpayers are entitled to competent and independent advice from tax practitioners in managing their tax affairs;
- tax practitioners have duties of integrity and competence and must act in the best interests of their clients, subject to the law;
- the Tax Practitioners Board (**TPB**) administers the conduct of tax practitioners; and
- the Australian Taxation Office (**ATO**) administers tax legislation.

Consistent with the above, any discussion concerning the role or governance of tax practitioners must start with the fundamental proposition that taxpayers are entitled to competent and independent advice.

Put simply, the interests of taxpayers must be treated as paramount in any consideration of the role of tax practitioners.

Twin Objects of the Charter and Forum

As stated in the draft charter of tax practitioner governance, which was circulated and discussed at our meeting of 22 October 2019, the two aims of the Charter and Forum would be:

- (a) to safeguard the independent role of tax practitioners in the tax system; and

- (b) to ensure changes to the Code of Professional Conduct (**Code**) are made with appropriate consultation.

The Committee agrees with this statement as to the objects of the Charter and Forum.

The Forum

Based on the successful operation of the National Tax Liaison Group (**NTLG**) over many years, we believe the Forum should comprise representatives of the major accounting bodies, the Taxation Institute of Australia, the Committee, the TPB, the ATO and Professional Standards Council.

The Forum would initially need to draw up the Charter as a first step in achieving the objects noted above.

After that it might meet about 4 times per annum to ensure that the Code becomes dynamic and to discuss and implement the ways in which the tax system should continue to efficiently and effectively protect the interests of taxpayers.

Fundamental to the efficient and effective working of the tax system is maintaining the independence of the TPB from the ATO – in the best interests of taxpayers.

Future

As a major participant in the NTLG and in the Review, the Committee would like to be involved in the establishment and operation of the Forum (including the drafting of the Charter).

Should you wish to discuss further any aspects of the submission please do not hesitate to contact Clint Harding, Chair of the Committee (charding@abl.com.au or 02 9226 7236).

Yours sincerely



Rebecca Maslen-Stannage
Chair, Business Law Section