



A.C.N. 162 054 140

The Treasury
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Submission: Review of eligibility requirement registration with the Tax Practitioners Board

Australian Bookkeepers Association (ABA) is a Recognised BAS Agent Association under the Tax Agent Services Act 2009 (TASA) & Regulations. We appreciate the opportunity to provide feedback on Treasury's Review of eligibility requirement registration with the Tax Practitioners Board.

Our perspective in this feedback is isolated in terms of our sphere of influence, specifically BAS Agents and as a Recognised BAS Agent Association. As such, we have only responded to feedback questions in your Review that influence BAS Agents and us as a Recognised BAS Agent Association.

As a general observation, several of our feedback responses will refer to the need for further consultation. There are established TPB consultative forums that exist to provide considered feedback on issues affecting the Tax and BAS Practitioner profession. Outside the TPB's Board and executive, there is the TPB Consultive Forum (a forum of RPAs, the ATO, and TPB representatives). In addition, there is the Governance and Standards Forum, which is a smaller focus group of RPAs, ATO, and the TPB established as a result of the 2019 James Review to consult on issues of governance, standards and the Code of Professional Conduct. The TPB has also established an Education Working group as a subset of the TPB Consultative Forum to consult on qualifications and CPE. These forums ought to be consulted on matters of reform within their sphere of influence like this one as part of a prudent consultative process.

Specific questions raised in your review:

Strengthening registration requirements for companies and partnerships (Q1-2)

Companies and partnerships governed by TASA range wildly in size from PWC down to a single BAS Agent trading through a company. Turnover in the billions of dollars with tens of thousands of employees and high-end/multinational clients is in stark contrast to a single BAS agent trading through a company with 15 clients turning over \$100,000. We therefore caution against an overly bureaucratic approach to governance in a 'one size fits all' approach. At the small end of the population, applying PWC-like governance requirements will levy a disproportionate and unnecessary impost in terms of cost and red tape on smaller operations, with such costs ultimately passed onto the consumer. We advocate either a two-speed approach (small/big) or a graduated governance approach, depending on the size of an organisation.

In terms of specific numbers or ratios of supervisors, we see merit in providing guidance. Imposing arbitrary metrics will be challenging because different types/sizes of businesses



could have differing ranges and volumes of tax and/or BAS services. Therefore, an appropriate ratio could be different from one practice to the next, depending on the type of service they provide. We advocate working through established consultative channels to develop ratios for such differences that exist in practices, but that will also result in substantive guidance.

Reviewing the professional association accreditation and registration pathways (Q3-5)

Question 3 is seemingly worded more widely than the “What is the Proposal” pre-amble, which talks about the registration pathway afforded to members of a Recognised Professional Association (RPA). Regarding Question 3, we believe the current Recognised Professional Association framework is appropriate. Irrespective of the TASA Regulation requirements for RPAs and any gaps Treasury may perceive, RPAs and the TPB do work collaboratively. If there are gaps, they should be tabled explored, and if required, an amendment should be made to the Regulation requirements. Speaking for our association (ABA), we are much closer to our BAS Agent practitioners than the TPB and take an active role in keeping BAS practitioners up to date with industry changes, TPB communications and compliance with the TASA provisions generally. Any change that waters down that collaborative working relationship is to be avoided.

Recognition of RPAs serves to limit the number of associations by regulating the traits they need to exhibit. Without those traits and TASA recognition you risk a proliferation of small associations that are not well placed to support their agent members with appropriate resources, education and training. If the quality of agent support is diminished, then so will their skill levels and their ability to properly assist their taxpaying clients. This will result in a negative impact on the objects of TASA.

In terms of the agent registration pathway, we pass no comment on the Tax Agent Reg 206 & Reg 210 options. In terms of the BAS Agent pathway, we see the 1400-hour reduction in Relevant Experience to 1000 hours as reasonable given the augmentation of the registrant when becoming a BAS Agent. The educational material, resources, support services and training offered by Recognised BAS Agent Associations is a compensatory advantage for the reduced number of hours of Relevant Experience. There currently exists some flexibility around Relevant Experience, such as the 20% Simulated Experience allowance and some of the flexibility envisaged in the next section of this Review. We believe the 1400 hours to 1000 hours is in keeping with that flexibility.

Broadening the TPB’s ability to accept alternative forms of ‘relevant experience’ (Q6-12)

Current Relevant Experience settings are broadly supported; however, we make an observation around experience not supported by a practicing agent.

Relevant experience supported by supervision from a practicing agent is in our view the most valuable because of its relevance to the registration being sought. In addition, supervision from a practicing agent in considering a Statement Of Relevant Experience (SORE) carries with it a form of implied qualitative endorsement. The final limb of Relevant Experience (“work of a kind approved by the Board”) is potentially problematic because the



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manner in which the TPB applies this limb is more opaque. This limb is applied quantitatively in the material available from the TPB description. Support for the SORE can be supplied by an unregistered and naïve (in terms of Tax/BAS agent services) person. The supervising person attests to the fact that the supervised person undertakes the volume of work that fits the definition of a BAS Service with no qualitative attestation. This type of Relevant Experience carries a lesser qualitative value to the board when assessing an applicant.

Flexibility on a **case-by-case basis** carries with it the qualitative risk noted above especially where the assessor has not had first-hand experience or a working knowledge of agent practices. We do support the flexibility that an **extension of time basis** offers especially for the BAS Agent community. BAS Agents have a high percentage of participants that have returned to the workforce often after a period of Maternity Leave.

With any change to the basis of assessment of Relevant Experience we commend the TPB to be as transparent as possible. In this manner the TPB can avoid pointless applications that waste the applicant's time and the TPB's time in processing. It also avoids the situation where an applicant has had an application for registration refused simply by not understanding the rules. This issue should receive feedback from the TPB's Governance and Standards Forum.

Primary qualifications settings (Q13-15)

Yes, the current primary qualification requirements are generally appropriate and remain fit for purpose. The provider is key to achieving quality learning outcomes, and it's noted that the TPB has implemented a quality control process. Of major concern are issues with academic integrity with the advancing pace of AI, as not all providers take a stringent approach to prohibiting the use of AI in assessments. Allowing the use of AI undermines the learning and assessment outcomes. Some work was underway on primary qualifications with the TPB's Education Working Group, and it should be factored into any prospective changes.

Short-form credentials should not be included within the primary qualification framework but are more aligned to the CPE regime, provided they meet certain criteria. Short-form credentials could supplement primary qualifications rather than replace them.

Granting the TPB additional flexibility to accept short-form credentials carries with it risks, including variable quality of providers and registrants not receiving the well-rounded outcomes of established providers when gaining a primary qualification in a piecemeal manner.

'Fit and proper person' in the TASA context (Q16-22)

We are broadly happy with the fit and proper person test. We support the suggested inclusion of reporting spent convictions. We also support the reshaping of the 5-year mandatory consideration, which needs to be graduated to take account of the gravity of a particular breach, e.g., PWC.

The conflict-of-interest suggestion is difficult to support without detail. Conflicts of Interest will always exist in public practice. They are unavoidable and the issue facing a practitioner is how they manage such conflicts not whether they exist in the first place. This issue is



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properly recognised in the existing Code. A serious breach of this Code item such as the mishandled Conflict by PWC allows the TPB to deem the affected practitioner(s) to not be a fit and proper person(s). You can't pre-empt every conflict of interest that may occur in a practitioner's working life, and you will simply complicate an application or renewal if you try. Perhaps greater awareness raising that poorly managed conflicts of interest are a Code breach that risk registration is sufficient. The example provided in the Review document about a late tax return is not sufficiently compelling in our view, as unforeseen circumstances can sometimes conspire to prevent lodgement (e.g. serious illness). Deeming a late tax return as a conflict of interest that renders a practitioner failing the fit and proper person test robs the TPB of the discretion to work with the late practitioner. Under the existing Code failure to meet tax obligations is a breach and if the TPB deem the occurrence significant, they can (and should) move on a fit and proper person interpretation.

Other proposals for consideration (Q23-27)

Requiring a BAS Agent to produce a succession/contingency plan for every possible interruption would be extremely difficult and forms another barrier to entry so we are not supportive for BAS Agents. A BAS Agent practice is a fairly simple operation. Their work is easily rehoused with another BAS practitioner, and all of their clients will also have a registered Tax Agent to fall back on if a critical event confronts them. Both the ATO and TPB also have established programs that assist agents through these types of events, which are temporary in nature.

In relation to flexibility to accept other qualifications I think the Board may already have that now. If they are confronted with a qualification that is Certificate IV equivalent or higher (with units of TASA, GST/BA and payroll learning), they can accept it. If an alternate qualification does not meet that benchmark, then we will not be supportive. If the qualification comes from a foreign source, for example, then it is hard to see how it would meet the required Australian content on payroll, GST/BAS and TASA, and it is difficult to see how a TPB officer could exercise the flexibility to assess it. The Certificate IV qualification can be earned within 12 months, so it is not an unreasonable impost on a prospective practitioner and is a necessary element to protect consumers of tax services.

Questions 25-27 are not applicable to the BAS Agent community, so we proffer no view on them.

We thank you for the opportunity to provide feedback and are more than happy to provide further discussion and details provided in this submission.

Yours Faithfully

A handwritten signature in black ink, appearing to read 'Peter Thorp', written over a light blue horizontal line.

Peter Thorp