

Director
Tax Agent Regulation Unit
Personal and Indirect Tax and Charities Division
Treasury
Langton Cres
Parkes ACT 2600

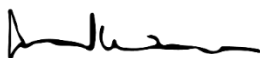
Dear Director,

The Australian Institute of Quantity Surveyors (AIQS) makes this submission in response to the Treasury consultation paper, *Review of eligibility requirements for registration with the Tax Practitioners Board*.

AIQS is the peak body for built environment cost professionals in Australia. AIQS provides a home for and supports quantity surveying professionals working across a range of fields including cost estimating, cost planning, contract administration, construction management and quantity surveying. AIQS's principal mission is to establish and uphold professional standards, maintain uniformity in procedures, support industry education, and foster public faith in cost certainty and the quantity surveying profession overall.

The AIQS responses are underpinned by the following statement included on page 8 of the consultation paper: *Purpose of the tax practitioner registration regime: The operation of unregistered and underqualified tax preparers puts at risk the public trust in the regulatory system. The requirement to obtain and maintain TPB registration ensures that practitioners have the qualifications and experience necessary to provide professional tax practitioner services, demonstrate suitable standards of ethical behaviour, and maintain appropriate professional indemnity insurance cover to protect clients in the event of instances of negligence or breaches of duty.*

Kind Regards



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CONSULTATION QUESTIONS AND AIQS RESPONSES

Strengthening registration requirements for companies and partnerships

- 1 Will the inclusion of governance requirements in registration criteria for companies and partnerships help to meet the objectives of the TASA of maintaining integrity of the tax system and providing adequate professional and ethical safeguards to consumers?

AIQS believes that the inclusion of governance requirements in the registration criteria for companies and partnerships will help meet the objectives of the TASA.

- 2 Is the current policy setting requiring entities to only demonstrate that they have a 'sufficient number' of individually registered tax practitioners appropriate? Should the number or ratio of individually registered tax practitioners be prescribed, or the number expanded to include all partners or directors within the entity who provide tax services?

AIQS believes that all individuals (excluding employees engaged in administrative roles) engaged in, or undertaking, tax services should be registered with the TPB. This will ensure integrity in all aspects covering the provision of tax agent services. The exception here will be those individuals who are on a path to registration but are under the supervision of a Registered Tax Agent. This is to enable prospective applicants to gain relevant experience, but this should not be for an indefinite period of time.

Requiring a limited number of Partners or Directors only to be registered does not address the qualification, experience, and knowledge requirements of the significant number of individuals who actually undertake the majority of the services. The Director's or Partner's role is largely limited to signing-off on the validity/veracity of the services or report provided to clients. There is a big assumption that appropriate supervisory and training regimes within companies are actually being undertaken.

Reviewing the professional accreditation and registration pathways

3. Is the current RPA framework (initial eligibility, ongoing eligibility and compliance framework) appropriate?

AIQS believes that the current framework for RPAs is not appropriate.

While the current framework addresses many valid governance aspects required of professional associations, it does not place enough focus on the real issue, which is the qualifications, experience and skills required of the practitioners they represent.

As indicated in the Consultation Paper, the TPB recognition process does impact on the governance and regulation of some professional associations. For example, AIQS is a company limited by guarantee under the Corporations Act (2001) and must comply with the provisions of that Act. The additional (perceived) regulatory burden associated with the TPB's registration process does at times have a broader impact on the governance of the association by its Board.

AIQS notes that while the majority of RPA members must undertake 15 hours of CPD annually, this is not the case for those tax practitioners with the "Condition" of Quantity Surveying. Quantity Surveyors, as registered tax agents, are currently only required to complete six hours of CPD every three years (two hours per year). AIQS requires that all AIQS Voting members complete 15 hours of CPD each year. For those Quantity Surveyors who are registered tax agents, their role in determining capital allowances

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or the provision of depreciation schedules may involve establishing a detailed cost estimate for a built asset where the original documentation cannot be sourced. AIQS has established a range of competencies required of Quantity Surveyors and believes that keeping abreast of the required knowledge and changes requires at least 15 hours of CPD annually.

4. If not, what should the framework look like? For example, replaced with an enhanced PDB regime?

AIQS believes that professional associations should be governed in accordance with the provisions of the regulations under which they are established. More importantly, the focus should be on the qualifications, experience, and skills assessments required of its members to ensure those members.

AIQS has in place a transparent complaint handling and disciplinary regime that affords natural justice and procedural fairness. In addition, AIQS notifies the TPB of instances where a member (who is a registered tax agent) has a complaint lodged against them.

5. How should tax practitioners who are currently registered under the voting member pathway be treated if RPA pathway was to be removed?

AIQS agrees with the proposal that existing Registered Tax Agents should be grandfathered. However, AIQS recommends that those tax agents with the “Condition” of Quantity Surveying should be required to complete 15 hours of CPD annually. Any new applicants should be required to satisfy the AIQS requirements for membership. That is Member of AIQS with the Certified Quantity Surveyor designation (MAIQS, CQS).

Broadening the TPB’s ability to accept alternative forms of ‘relevant experience’

6. Do you agree that the current ‘relevant experience’ settings are set at an appropriate level for both tax agents and BAS agents? If not, what changes to these settings should be made and why?

For those with the “Condition” of Quantity Surveyor, the current relevant experience requirements are largely inadequate.

Where a company has a limited number of Directors or Partners registered as tax agents, any employees undertaking activities that relate to *(Parts 2-10) of the Income Tax Assessment Act (1997)* may not be required to be registered, and if they are registered may not have any quantity surveying qualifications and/or relevant experience. AIQS believes that not all experience is good experience or the best sort of experience. All too often inadequate training and supervision or poor inadequate experience is counted as being relevant. Prior to becoming an AIQS Voting member, all applicants for MAIQS, CQS must pass an Assessment of Professional Competence (APC), which includes the provision of a Professional Work Experience Diary mapped against the competencies required of a Quantity Surveyor. The candidate is interviewed by a panel of three highly- experienced practitioners who will test the candidate’s knowledge and ability to apply their knowledge and experience in differing scenarios.

A copy of the [AIQS Membership Entry and Elevation Procedures is attached](#) along with the Member grade application form. The AIQS APC Assessor and Candidate Guidelines are currently under review.

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7. Do any of the proposed options, or combination of proposed options, provide a balanced and equitable method of embedding flexibility in the registration regime? Are there any other alternative options which provide a more balanced method of providing additional flexibility?

In relation to those registered tax agents with the “Condition” of Quantity Surveying, AIQS believes that the experience requirements detailed in the AIQS Membership Entry and Elevation Policy should be applied. This establishes a minimum experience-based approach which ensures consistency.

Assessing relevant experience based on a certain number of years over the course of a longer time frame raises the possibility of an applicant having no experience in the three to four years immediately preceding their application as a registered tax agent. How will the TPB be able to assess the competency of the applicant?

8. Do you perceive any problems or have any concerns with providing the TPB the ability to consider exceptions to the ‘relevant experience’ criteria on a case-by-case basis (Option 1)?

AIQS does not believe this would be suitable for those wishing to apply for Registered Tax Agent with the “Condition” of Quantity Surveying.

9. In relation to simulated work experience programs under Option 1, do you believe the cap of 20 per cent provides sufficient flexibility without compromising the quality of tax practitioner services that would be provided? If not, what would be a more appropriate percentage and why?

AIQS believes this cap would be suitable as long as the simulated work experience has quality control measures associated with it, including a test or similar.

10. Do you believe that the introduction of an alternative, longer time period to obtain ‘relevant experience’ (Option 2) would provide sufficient flexibility to account for special circumstances? What levels of relevant experience are appropriate alternatives for each registration pathway?

For those with the “Condition” of Quantity Surveying, assessing relevant experience based on a certain number of years over the course of a longer time frame raises the possibility of an applicant having no experience in the three to four years immediately preceding their application as a Registered Tax Agent. How will the TPB be able to assess the competency of the applicant and the relevance of their experience?

The TPB will have a Duty of Care to clients of registered tax agents. To that end there should be a requirement for an applicant who has been out of the workforce for a period of time to complete the 15 hours of CPD in the 12 months immediately prior to applying for registration and an assessment of that applicant’s experience.

11. Have any other regimes embedded similar flexibility in an effective manner? If so, how?

Unsure.

12. Should the definition of ‘relevant experience’ for registration purposes be broadened (or, contracted)? If so, why?

AIQS believes the current definition of ‘relevant experience’, for the Condition of Quantity Surveying, is appropriate.

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Primary qualifications settings

13. Do you agree that the current primary qualification requirements are stuck at a level that remains fit for purpose? If not, why not and what changes do you believe are required?

For those seeking the “Condition” of Quantity Surveying, AIQS believes that the current primary qualification requirements are not directly appropriate and of little relevance to the work undertaken by a quantity surveyor.

AIQS accredits the following 21 university programs across Australia.

Undergraduate

- University of New South Wales
 - Bachelor of Construction Management and Property
 - Bachelor of Construction Management and Property (Honours)
- University of Newcastle
 - Bachelor of Construction Management (Building) (Honours)
- University of Technology Sydney
 - Bachelor of Construction Project Management
 - Bachelor of Construction Project Management / Bachelor of International Studies
- Western Sydney University
 - Bachelor of Construction Management (Honours) (Majoring in Quantity Surveying)
- Bond University
 - Bachelor of Construction Management and Quantity Surveying
- Queensland University of Technology
 - Bachelor of Built Environment (Honours) (Construction Management and Quantity Surveying)
 - Bachelor of Urban Development (Honours) (Quantity Surveying and Cost Engineering)
- Deakin University
 - Bachelor of Design (Architecture) / Bachelor of Construction Management (Honours)
 - Bachelor of Construction Management (Honours)
- Royal Melbourne Institute of Technology
 - Bachelor of Construction Management (Honours)
- University of South Australia
 - Bachelor of Construction Management (Honours) (Specialising in Quantity Surveying)
- Curtin University of Technology
 - Bachelor of Applied Science (Construction Management)

Postgraduate

- Bond University
 - Master of Construction Practice
 - Master of Construction Practice (Professional)
- Deakin University
 - Master of Construction Management (Professional)
- Swinburne University of Technology
 - Master of Construction and Infrastructure Management

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- The University of Melbourne
 - Master of Construction Management
 - Master of Architecture / Master of Construction Management
 - Master of Construction Management / Master of Property

Refer to the **AIQS Accredited Program Guide (attached)** for more information.

AIQS does agree that those wishing to apply for registration with the “Condition” of Quantity Surveying should be required to complete a course covering the relevant provisions (*Parts 2-10*) of the *Income Tax Assessment Act 1997* and TASA, including the Code of Professional Conduct.

14. Do you agree that short-form credentials should not be included within the primary qualification settings? If not, how should they be included?

AIQS believes short-form credentials should be recognised in conjunction with a primary tertiary education qualification.

15. Are there any unintended consequences, benefits or issues that should be considered in granting the TPB additional flexibility to accept short-form credentials?

Refer to Q14.

‘Fit and proper person’ in the TASA context

16. Is the fit and proper test currently fit for purpose? If not, what needs to be included in this test?

AIQS believes the current fit and proper test is still currently fit for purpose with the inclusion of the 2019 TPB Review Recommendations.

17. Should the matter of conflicts of interest be incorporated into the fit and proper person requirement? (Option 1)

AIQS supports the inclusion of conflicts of interest provisions, such as that suggested by Treasury. Conflicts of interest should be extended to the company, as there may be conflicts within the company. For example, where a real estate firm provides a professional service such as facilities management or investment services and then locks in the client to perform other services such as tax depreciation without allowing the client to research alternative providers.

18. What considerations or requirements should be included in the TPB’s conflict of interest test? Are APRA’s and ASIC’s conflict of interest considerations appropriate for the TPB to model their conflict-of-interest requirements?

Yes, AIQS supports the proposal to include actual, potential and perceived conflicts of interest for both the individual and the company.

19. Should the management of an individual’s personal income tax affairs, and that of their associated entities, be a relevant statutory consideration under the fit and proper personal requirement?

Yes, as this goes to character, particularly in relation to lodgement and the provision of true and accurate information. Provision of false or misleading information should result in deregistration.

20. Should disclosure of spent convictions in applications for registration be mandatory? (Option 2)

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Yes

21. Do you believe the TPB should be required to consider the events listed in subsection 20-15(b) from within a different period of time? Should this be a longer or shorter period, or regardless of when the events occurred?

No response.

22. What other matters should be considered in assessing fitness and propriety? Are there any considerations used by other Government regulators that should be included in the TPB's fit and proper test?

<https://www.tpb.gov.au/fit-and-proper-requirements>

<https://www.vba.vic.gov.au/registration-and-licensing/building-practitioner-registration/phoenixing-provisions>

VBA has extended the existing financial probity requirements to include anybody who has been an influential person in a company that has gone into external administration.

Other proposals for consideration

23. Should the Code be amended to require individual tax practitioners to establish and maintain a contingency/succession plans to ensure there is continuity of services to clients in the event of a significant disruptive event?

Yes. This should be included as part of the Tax Practitioners risk management for business continuity purposes. Not having a contingency for business interruption places the client at risk. Significant disruptive event would need to be defined.

24. Should the TASA be amended to give the TPB greater flexibility to accept other qualifications outside the traditional tax practitioner course of study?

Refer Q13.

25. Should the TASA be amended to capture existing and emerging tax intermediaries?

AIQS is not in a position to advise.

26. Should the TASA be amended to capture in-house tax advisers such as employees or secondees? If so, which classes of in-house advisers should be required to register with the TPB?

AIQS is not in a position to advise.

27. Should the TASA be amended to require legal practitioners who provide tax agent services, as defined in section 90-10 of the TASA, for a fee or reward, to be registered with the TPB?

AIQS is not in a position to advise.