

7 August 2024

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Director, Tax Agent Regulation Unit  
Personal, Indirect Tax and Charities Division  
The Treasury  
Langton Crescent  
Canberra ACT 2600

Dear Director,

## Treasury Consultation Paper: Review of eligibility requirements for registration with the Tax Practitioners Board

We welcome the opportunity to make this submission regarding the Treasury Consultation paper issued in July 2024 relating to **Review of eligibility requirements for registration with the Tax Practitioners Board (Paper)**.

Our comments on this matter are made in good faith with the intention of identifying whether the proposals give effect to the policy objectives (as we understand them), seeking to avoid unintended consequences, and helping to facilitate the administration of the law and compliance with the law.

Various Deloitte entities and Deloitte personnel are registered tax agents and may be affected by the matters that are addressed in the Paper. We note and respect that Treasury is the relevant decision maker in respect of the proposals raised in the Paper, and we are pleased to provide our submission comments for Treasury's consideration as requested through the public consultation process.

We are supportive of a regime and practices that "support public trust and confidence in the integrity of the tax profession and of the tax system".

Our submission comments are in two parts: firstly, some general observations in respect of parts of the Paper, and then more detailed comments on some of the specific consultation questions.

By way of general observations:

- **Reviewing the professional association accreditation and registration pathways:** we submit that the *Tax Agent Services Act 2009* (TASA) and the Tax Practitioners Board (TPB) should seek to leverage off existing elements of the wider ecosystem including Chartered Accountants Australia & New Zealand (CAANZ) and other professional bodies, which set standards and provide other regulation over participants in the tax profession;
- **Broadening the TPB's ability to accept alternative forms of 'relevant experience':** we are supportive of a flexible approach towards relevant experience which recognises emerging and changing ways of work. Critically, this approach should not undermine the required standards and skills of registered tax agents;
- **'Fit and proper person' in the TASA context:** we are supportive of a fit and proper person test that leverages off existing fit and proper person tests adopted by the Commonwealth so as to standardise the test as much as possible.

Our more specific submission comments follow.

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**Question 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?**

We understand from the Paper that the governance requirements referred to in this question equate with the “quality management systems” that were originally proposed to take effect from 1 August 2024, under section 40 of the Tax Agent Services (Code of Professional Conduct) Determination 2024 (Determination).

The Paper states at page 16 that “This proposal will also give the TPB the ability to terminate a company or partnership’s registration if they fail to meet an ongoing registration requirement.”

Items included in the Determination must be complied with in the same way as other items in the Code of Professional Conduct (Code). That is, once the Determination is operative, the quality management systems requirements in section 40 form part of the Code.

Under the current provisions of TASA, the TPB already has the power to suspend or terminate a registration pursuant to Subdivision 30-B where, upon due investigation, there has been a failure to comply with the Code.

We submit that once the Determination is operative the TPB will have sufficient power to deal with the absence of such governance requirements as a breach of the Code. Therefore including governance requirements as a registration requirement could result in additional administration and compliance costs and processes, which in turn may create barriers to entry, without any commensurate additional power or sanction/ or increase in consumer protection.

**Question 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?**

We are supportive of the current “facts and circumstances” approach to this important matter, and it may be appropriate for the TPB to review existing guidelines and examples. If there are particular issues or emerging concerns, these can be addressed in the first instance by the TPB by way of an update to its relevant guidance.

**Question 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?**

If a person is providing tax agent services – whether as a legal practitioner, an accountant or other – then as a matter of principle, it is submitted that the TASA should apply to all such persons. Given that the object of the TASA “is to support public trust and confidence in the integrity of the tax profession and of the tax system”, the achievement of that object may be frustrated if a part of the “tax profession” is excluded from the ambit of the TASA. A recipient of tax agent services may assume that the TASA applies to all persons providing such services.

It is no doubt the case that legal practitioners are subject to other legal, professional and ethical standards and obligations, as are accountants. Notwithstanding, given the policy intent that additional standards be imposed on the tax profession by TASA, it is submitted that such standards should apply to all members of the tax profession.

We would be pleased to discuss.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Watkins', with a horizontal line underneath.

**David Watkins**

Leader, Tax Regulation & Reputation

Partner, Deloitte

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