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Review of eligibility requirements for registration with the Tax Practitioners Board – consultation

As a registered training organisation, we appreciate the opportunity to contribute to The Treasury's consultation process. The future of the tax profession and the broader financial services industry is of great importance to our training organisation as we specialise in educating tax and BAS practitioners of the future, and also providing CPE opportunities for registered practitioners. The majority of our training and assessment team are registered tax and BAS practitioners who understand the integrity and effectiveness of the tax system is central to the services they provide, and those we provide as a registered training organisation. We appreciate this is crucial for maintaining public trust and upholding the high standards of professionalism and integrity in the sector.

Our company is committed to continuous improvement, sustainability, professionalism and central to this is quality education that supports the learning outcomes required for those operating in the industry.

To this accord, I provide the following general observations:

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?

The inclusion of governance requirements in the registration criteria for companies and partnerships would help meet the objectives of the TASA by strengthening the integrity of the tax system and providing adequate professional and ethical safeguards to consumers. Governance requirements would ensure that these entities adhere to structured, ethical, and compliant business practices, which is essential for maintaining public trust and the overall effectiveness of the tax system. It would also promote accountability and transparency within these entities, further aligning them with the high standards expected in the tax profession, however this requirement should not be enforced as part of the initial registration process, but as a Code obligation that applies once registered.

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?

The current policy that requires entities to demonstrate they have a 'sufficient number' of individually registered tax practitioners is generally appropriate in ensuring a baseline level of expertise within the entity. However, I don't believe prescribing a specific number or ratio of registered tax practitioners because each client and service arrangement different.

Given the nature of accountability and transparency all partners or directors who provide tax services should be individually registered as this would enhance the quality and consistency of tax services offered by the entity. This approach would ensure that all key individuals involved in providing tax services are held to the same professional standards, further safeguarding the interests of consumers and maintaining the integrity of the tax system.

Reviewing the professional association accreditation and registration pathways

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

The current Recognised Professional Association (RPA) framework provides an appropriate structure for ensuring that tax practitioners meet professional standards.

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

If a PDB regime were to be implemented, it should operate independently from the TPB to ensure objective oversight and to prevent conflicts of interest. The framework would be an unnecessary deviation from the current and effective RPA regime.

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

For tax practitioners currently registered under the voting member pathway, any transition to a new regime should include provisions that allow them to retain their registration, possibly through a grandfathering clause or by meeting the updated requirements within a reasonable timeframe, ensuring that they are not unfairly disadvantaged by the change.

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?

The current 'relevant experience' settings seem to be at an appropriate level for both tax agents and BAS agents.

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?

Flexibility within the TPB registration process is important for achieving appropriate and unbiased outcomes. Relevant experience should be assessed on a case-by-case basis, noting this may be a burden on TPB resources.

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)?

Availability of resources to be able to assess and respond to applicants in a reasonable timeframe may be challenging.

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?

The current cap on simulated work experience is not appropriate in all circumstances. Whilst a higher cap may place risk on the practical skills associated with relevant experience, a reduction in hands on experience can be justified if it is replaced with a system that is aligned with a policy set by the Board.

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?

Timeframes are adequate and should remain unchanged.

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

No feedback.

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

The current definition is adequate as the TPB has discretion to approve 'another kind' of relevant experience. Perhaps issuing further guidance and transparency on what is acceptable and not acceptable as 'relevant experience' would benefit new applicants.

Primary qualifications settings

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

In consultation with the Australian Bookkeepers Association, we agree that the current primary qualification requirements are generally struck at a level that remains fit for purpose. These requirements ensure that individuals entering the profession have the necessary foundational knowledge and skills to competently perform their roles. However, the quality of these qualifications is largely dependent on the education providers, and the TPB's quality control process for approving these providers is crucial in maintaining high standards.

That said, there are concerns about academic integrity, particularly with the increasing use of AI in education. Not all education providers enforce strict policies to prevent the use of AI in assessments, which can undermine the validity of learning and assessment outcomes. To address this, it may be necessary to strengthen the oversight of education providers and ensure that measures are in place to uphold academic integrity, particularly in the context of emerging technologies like AI.

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

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:

1. Short-form credentials can be used to supplement primary qualifications rather than replace them.
2. Ensure that short-form credentials are accredited by reputable institutions and meet specific quality standards.
3. The TPB should adopt or implement a short-form credentials framework to support the inclusion as CPE
4. Short-form credentials can provide targeted knowledge and skills in specific areas, enhancing competency levels in a short timeframe.
5. Integrate short-form credentials into the Continuing Professional Education (CPE) framework. This allows BAS agents to continuously update their skills and knowledge in response to evolving industry demands.

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

Granting the TPB additional flexibility to accept short-form credentials is a positive step forward in principle, however some matters for consideration include:

1. The quality of short-form credentials can vary significantly. Without applying the national framework there is a risk of accepting credentials that do not adequately prepare practitioners for their responsibilities or risk in terms of alignment and compliance with competency standards
2. There may be a tendency for individuals to rely solely on short-form credentials, potentially undermining the essential education provided by traditional qualifications.
3. Short-form credentials can be used to quickly adapt to changes in the industry, providing timely and relevant training on new regulations, technologies, and best practices.
4. They offer a more accessible and flexible way for BAS agents to enhance their skills and knowledge, particularly for those who may not have the time or resources to pursue long-term study programs.
5. Adapting a framework for the acceptance of short-form credentials as CPE is essential to ensure consistency and reliability. The TPB will need to issue educators and other stakeholders with clear guidelines and criteria for evaluating these credentials.

'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?

Yes, the fit and proper test is currently fit for purpose.

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

No. The requirement to manage of conflicts of interest is define adequately within the Code of Professional Conduct. It is appropriate to ensure that tax agent services are provided to the public in accordance with appropriate professional and ethical standards.

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?

No comment based on item 17. Covered by the Code adequately.

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 person requirement?

No comment based on item 17. Covered by the Code adequately.

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

No comment.

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 comment.

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?

Tests applied by other Government regulators as specific to the relevant industry, and further inclusions to the practitioner regime will not support quality outcomes.

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?

Amending the Code to require individual tax practitioners to establish and maintain contingency/succession plans would be a prudent measure. Such a requirement would help ensure continuity of services to clients in the event of a significant disruptive event, such as illness, death, or unexpected unavailability of the practitioner.

Including this requirement in the Quality Management System (QMS) would formalise the need for preparedness and resilience in tax and BAS agent practices.

Contingency/succession plans are important for tax and BAS agent practices because:

- These plans should aim to protect clients from the risks associated with the sudden unavailability of their tax practitioner, ensuring they receive uninterrupted service.
- Continuity planning ensures that all compliance obligations, such as lodgements and submissions, are met on time, avoiding penalties for clients.

- Having a contingency/succession plan reflects a high level of professionalism, demonstrating a commitment to ethical and responsible practice management.
- Business continuity plans help maintain the reputation and ongoing operation of the practice, even in challenging circumstances.
- Effective risk management helps in managing potential disruptions, and helps practitioners minimise the impact on their clients and their business.
- If mandated by the Code, contingency/succession plans will ensure that all practitioners are held to the same standard, promoting fairness and consistency across the profession.

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

It would be reasonable to have concerns about the standards of qualifications for tax practitioners, especially considering the importance of ensuring that those entering the profession have the requisite knowledge and skills. Maintaining a high standard of education and qualifications is crucial for ensuring that tax practitioners, including BAS agents, are well-equipped to navigate the complexities of Australian tax law and provide accurate, compliant services to clients.

Therefore, the TASA should not be amended to give the TPB greater flexibility in accepting other qualifications outside the traditional tax practitioner course of study, for the following reasons:

1. Allowing non-traditional qualifications could dilute the educational standards required for the profession. The current framework ensures that all practitioners meet a specific level of competency.
2. Australian tax law is complex and subject to frequent changes. Practitioners need a thorough and specific education in this area to ensure compliance and provide accurate advice to clients. Non-traditional qualifications may not cover the necessary depth of content.
3. Ensuring that all practitioners have completed rigorous, recognised qualifications helps maintain the integrity and trustworthiness of the profession.
4. The public relies on tax practitioners to manage their financial affairs accurately and legally. Appropriate educational standards help to build and maintain this confidence.
5. Qualifications that are not specifically aligned to the Australian context may lack the technical, practical, and competency needed to apply tax law effectively in real-world scenarios.

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

Amending TASA to capture existing and emerging tax intermediaries is pivotal for maintaining the integrity, fairness, and effectiveness of the tax system. The evolving range of services creeping into tax services should not be unregulated. The TPB should ensure that all tax professionals operate under a consistent regulatory framework, protecting consumers and upholding high standards of professionalism and ethical conduct.

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?

Employees from external tax firms who may be seconded within a client to manage a client's tax affairs from within the client organisation should be subject to TASA oversight. This class of in-house tax advisers should be registered tax practitioners to ensure that there is consistency of regulation between in-house and external advisers, otherwise they are also escaping supervision and control obligations, competence, and most of the Code obligations. I also think anyone, (employee or not) providing BAS or tax services should be registered.

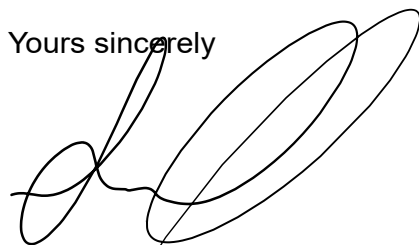
27. Should the TASA be amended to require legal practitioners who provide tax agent services, as defined in section 90-10 of the TASA, for a fee or reward, to be registered with the TPB?

TASA requires those 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 thus lawyers should be included. If a tax agent advises on certain areas of law, they would need the relevant qualifications, and registration.

Another issue here is the practical skills lawyers have in providing a tax or BAS agent service. Whilst they may be adept at interpreting law, one would need to consider if the individual is qualified, experienced and competent to deliver a tax or BAS service.

Thank you for considering this feedback. I look forward to your response and am available to discuss any further details if needed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sonya Farrawell', with a large, sweeping flourish extending to the right.

Sonya Farrawell

CEO

My CPE Pty Ltd