



IS YOUR TAX OR BAS AGENT REGISTERED UNDER THE NEW TAX AGENT SERVICES REGIME?

The new Tax Agent Services Regime will commence on 1 March 2010.

This regime will affect all tax and BAS agents providing tax agent or BAS services. This includes, but is not limited to persons providing tax advice, ascertaining tax liabilities, entitlements or obligations and representing clients in dealings with the Commissioner. This will affect accountants, bookkeepers and some lawyers.

The new regime is intended to ensure that tax agent services and BAS services provided to taxpayers are of an appropriate standard.

Some of the key legislative elements of the new regulatory regime are summarised below.

The Tax Agent Services Act 2009 provides for:

- The establishment of the new national Tax Practitioners Board;
- a legislated Code of Professional Conduct to govern the provision of tax agent and BAS services;
- a wider range of disciplinary sanctions which may be imposed by the Board;
- registration and regulation of tax agents and BAS agents; and
- a 'safe harbour' for taxpayers from penalties who use tax agents or BAS agents in certain circumstances.

The Tax Agent Services Regulations 2009 provide:

- requirements for registration as a tax agent and a BAS agent;
- definitions and requirements for recognition as a recognised tax agent association and recognised BAS agent association; and
- fees for registration.

Does your tax provider need to register?

For tax agents, the answer to this question will depend on whether they are providing "tax agent services".

A "tax agent service" includes, but is not limited to:

- preparing or lodging a return, notice, statement, application or other document about a taxpayer's liabilities, obligations or entitlements under a taxation law;
- preparing or lodging on behalf of a taxpayer an objection against an assessment, determination, notice or decision under a taxation law;
- applying to the Commissioner for a review of, or instituting an appeal against, a decision on an objection;
- giving a taxpayer advice about a taxation law that the taxpayer can reasonably be expected to rely upon to satisfy their taxation obligations; and
- dealing with the Commissioner on behalf of a taxpayer.



Does your tax provider meet the registration requirements?

To be eligible to register, an entity must satisfy:

- a fit and proper person test; and
- prescribed qualification and education requirements.

The following case studies illustrate the registration requirements.

Who is fit and proper?

Two years ago, Bill was convicted of a drink driving charge. He received a suspended prison sentence.

This is a matter that would need to be disclosed to the Board for their consideration when determining whether Bill is a fit and proper person.

Does an accounting degree qualify you to register?

Bill has an accounting degree and has been working as an accountant for the last 12 months.

Unless the transitional rules are applicable, Bill will need to complete an approved course in Australian taxation law and commercial law to be eligible to register.

Does a diploma qualify you to register?

Bill has an accounting diploma. He has been working as a tax lawyer for the last 2 years.

Unless the transitional rules are applicable, Bill will need to complete an approved course in Australian taxation law and commercial law to be eligible to register.

Does a law degree qualify you to register?

Bill has a law degree and is admitted as an Australian legal practitioner. He has been working as a tax lawyer for the last 12 months.

Unless the transitional rules are applicable, Bill will need to complete an approved course in basic accountancy and Australian taxation law to be eligible to register.

Does work experience qualify you to register?

Bill does not have any tertiary qualifications. However, he has worked as an accountant for the last 8 years.

Unless the transitional rules are applicable, Bill will need to complete an approved course in basic accountancy, Australian taxation law and commercial law to be eligible to register.

What if I have not completed any of the required approved courses?

In this case, Bill would only be eligible to register if he is a voting member of a recognised professional association (such as the Taxation Institute) and he has at least 8 years of relevant work experience.

Michelle Pearce and Face Accountants Pty Limited are eligible to be registered as a tax agent under the new regime. Is your tax agent or BAS provider? You should check.

If you would like further information or require assistance in relation to the above please do not hesitate in contacting our office on 02 9555 1309.

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