

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 334

Issued by authority of the Assistant Treasurer

Tax Agent Services Act 2009

Tax Agent Services Amendment Regulations 2010 (No. 2)

Section 70-55 of the *Tax Agent Services Act 2009* (the Act) provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 20-10 of the Act provides that regulations may prescribe systems to accredit professional associations to recognise professional qualifications and experience relevant to the registration of individuals as tax agents and Business Activity Statement (BAS) agents.

The purpose of these Regulations is to improve and clarify the drafting of the *Tax Agent Services Regulations 2009* (the Principal Regulations) in relation to the recognition of professional associations.

These Regulations clarify a rule in relation to the recognition of BAS agent associations by redrafting the substance of a small part of the Principal Regulations.

These Regulations also make minor corrections to the text of the Principal Regulations.

Further details of the Regulations are set out in the Attachment.

The details of these Regulations were not subject to a public consultation as they make only minor technical changes to the Principal Regulations. The Act specifies no conditions that need to be satisfied before the power to make these Regulations may be exercised.

These Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

These Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Authority: Section 70-55 of the
*Tax Agent Services
Act 2009*

Details of the Tax Agent Services Amendment Regulations 2010 (No. 2)

Regulation 1 — Name of Regulations

This regulation provides that the title of the Regulations is the *Tax Agent Services Amendment Regulations 2010 (No. 2)*.

Regulation 2 — Commencement

This regulation provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 — Amendment of Tax Agent Services Regulations 2009

This regulation provides that the Regulations amend the existing *Tax Agent Services Regulations 2009* (the Principal Regulations) which were made on 12 November 2009 and registered the following day.

SCHEDULE 1 - AMENDMENTS

Item [1] and [2] – Regulation 4C - amendments to clarify

These amendments improve the clarity of the rules in relation to the recognition of BAS agent associations and effectively re-write the substance of a small part of the regulations as enacted on 12 November 2009.

These amendments clarify that from 1 March 2010 to 28 February 2013 the Tax Practitioners Board (the Board) may recognise a BAS association even if it does not meet the criteria set out in item 108, or items 108 and 109 of Schedule 1, if it meets all other objective criteria. In practice, this means that the Board may recognise an organisation as a BAS agent association if it does not have the requisite number of members and/or its members do not have appropriate qualifications, provided that the association meets all the other objective criteria.

Item [3] and [4] – minor technical corrections

Items 3 and 4 make minor technical corrections to subregulation 4D(3) of the Principal Regulations which, from 1 March 2013, allows the Board to recognise a BAS agent association even if it does not meet the criteria set out in item 108 or 109 of Schedule 1, provided that it meets all other objective criteria.