

## EXPLANATORY STATEMENT

### **Issued by authority of the Assistant Treasurer and Minister for Financial Services**

#### *Tax Agent Services Act 2009*

#### *Tax Agent Services Amendment (Updating Fees) Regulations 2024*

Subsection 70-55(1) of the *Tax Agent Services Act 2009* (the Act) provides 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.

Paragraph 20-20(2)(b) of the Act provides that an application for registration as a tax agent or business activity statement (BAS) agent to the Tax Practitioners Board (the Board) must be in a form approved by the Board and accompanied by the prescribed application fee.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Tax Agent Services Amendment (Updating Fees) Regulations 2024 (the Regulations) amended the registration application fees for tax agents and BAS agents in the *Tax Agent Services Regulations 2022* (the TAS Regulations).

Subsection 22(1) of the TAS Regulations sets base registration fees that tax agents and BAS agents must pay to maintain their registration for a specified period. Those fees are indexed according to the formulas set out in subsections 22(2) and (3) of the TAS Regulations on the first of July every year and were due to be indexed on 1 July 2024.

Part 2 of Schedule 3 to the *Treasury Laws Amendment (2023 Measures No. 1) Act 2023* changed the registration period for tax and BAS agents from at least three years to at least one year. That change applied to any new and renewal registration applications received on or after 1 July 2024.

The Regulations amend the fee amounts that apply to new and renewal registration applications from 1 July 2024. The new fee amounts are one-third of what the previous fees would have increased to under the indexation provisions from 1 July 2024, to reflect that the minimum period of registration was reduced to one-third from 1 July 2024. The new amounts will continue to be indexed every year from 1 July 2025 with no change to the formula or methods set out in subsections 22(2) and (3) of the TAS Regulations.

If a tax agent or BAS agent has an existing registration on 1 July 2024, when they next apply to renew their registration they would be subject to the revised renewal period and revised fee. The revised fee would be the updated amount specified in the table in subsection 22(1) of the TAS Regulations if they apply before or on 30 June 2025, or an indexed amount if they apply on or after 1 July 2025.

There are no consequential amendments arising from the Regulations.

Public stakeholder consultation was not considered necessary because the amendments ensure that tax and BAS agents pay reduced fees to reflect the reduced registration period.

The change to the minimum registration period from at least three years to at least one year was consulted on as part of consultation on the *Treasury Laws Amendment (2023 Measures No. 1) Act 2023*. Without the proposed Regulations, the fees under the TAS regulations would have resulted in tax and BAS agents paying three times more than they previously paid per year of registration, from 1 July 2024.

The Regulations are subject to the automatic repeal process under section 48A of the *Legislation Act 2003*. That section provides that where a legislative instrument only repeals or amends another instrument, without making any application, saving or transitional provisions relating to the amendment or repeal, the instrument is automatically repealed. Once repealed, the sunset regime set out in Part 4 of Chapter 3 of the *Legislation Act 2003* is no longer relevant to the Regulations.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commenced on 1 July 2024.

Details of the Regulations are set out in [Attachment \[A\]](#).

A statement of Compatibility with Human Rights is at [Attachment A](#).

The Office of Impact Analysis (OIA) has been consulted (OIA ref: OIA23-05937) and agreed that an Impact Analysis is not required.

The measure has no impact on compliance costs.

**Details of the Tax Agent Services Amendment (Updating Fees) Regulations 2024**

**Section 1 – Name**

This section provides that the name of the regulations is the *Tax Agent Services Amendment (Updating Fees) Regulations 2024* (the Regulations).

**Section 2 – Commencement**

Schedule 1 to the Regulations commenced on 1 July 2024.

**Section 3 – Authority**

The Regulations are made under the *Tax Agent Services Act 2009* (the Act).

**Section 4 – Schedule**

This section provides that each instrument that is specified in the Schedules to this instrument are amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

**Schedule 1 – Amendments**

**Item 1 – Subsection 22(1) (table item 1, column 2)**

Item 1 reduces the base registration application fee for tax agents in subsection 22(1) table item 1, column 2, from \$704 to \$273.

**Item 2 – Subsection 22(1) (table item 3, column 2)**

Item 2 reduces the base registration application fee for BAS agents in subsection 22(1) table item 3, column 2, from \$141 to \$54.

The fees paid for applications for registration made during the 2023-24 income year, applying the indexation provisions in subsection 22(2) and (3) of the TAS Regulations, were \$783 for tax agents and \$156 for BAS agents. Under the indexation provisions those fees would have increased on 1 July 2024.

The new fee amounts of \$273 and \$54 are one-third of what the previous fees would have increased to on 1 July 2024 under the indexation provisions.

**Item 3 – Subsection 22(2)**

Item 3 specifies that the fee amounts of \$273 and \$54 will first be indexed on 1 July 2025. This is because the new fee amounts already take into account the indexation provisions up until and including the indexation that was due to occur on 1 July 2024.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Tax Agent Services Amendment (Updating Fees) Regulations 2024**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The Legislative Instrument amended the registration application fees for tax agents and business activity statement (BAS) agents in the *Tax Agent Services Regulations 2022* (the TAS Regulations).

Subsection 22(1) of the TAS Regulations sets base registration fees that tax agents and BAS agents must pay to maintain their registration for a specified period. Those fees are indexed according to the formulas set out in subsections 22(2) and (3) of the TAS Regulations on the first of July every year and were due to be indexed on 1 July 2024.

Part 2 of Schedule 3 to the *Treasury Laws Amendment (2023 Measures No. 1) Act 2023* changed the registration period for tax and BAS agents from at least three years to at least one year. The change applied to any new and renewal registration applications received on or after 1 July 2024.

The Legislative Instrument amended the fee amounts that apply to new and renewal registration applications from 1 July 2024. The new amounts are one-third of the amounts that would have been paid under the previous provisions from 1 July 2024, to reflect that the minimum period of registration was reduced to one-third from 1 July 2024. The new amounts will continue to be indexed every year from 1 July 2025 with no change to the formula or methods set out in subsections 22(2) and (3) of the TAS Regulations.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.