



Tax Agent Services (Code of Professional Conduct) Determination 2024

I, Stephen Jones, Assistant Treasurer and Minister for Financial Services, make the following determination.

Dated 1 July 2024

Stephen Jones
Assistant Treasurer
Minister for Financial Services

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Part 1—Preliminary

1 Name

This instrument is the *Tax Agent Services (Code of Professional Conduct) Determination 2024*.

2 Commencement

- (1) Each provision of instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 August 2024.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Tax Agent Services Act 2009*.

4 Definitions

Note: Expressions have the same meaning in this instrument as in the *Tax Agent Services Act 2009* as in force from time to time—see paragraph 13(1)(b) of the *Legislation Act 2003*.

In this instrument:

the Act means the *Tax Agent Services Act 2009*.

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Part 2—The Code of Professional Conduct

Division 1—Additional obligations of general application

Subdivision A—Preliminary

5 Additional obligations relating to the professional and ethical conduct of registered tax agents and BAS agents

Under section 30-12 of the Act, the obligations relating to professional and ethical conduct of registered tax agents and BAS agents set out in this Part are determined for the purposes of subsection 30-10(17) of the Act.

Note: Section 30-10 of the Act sets out the Code of Professional Conduct applying to registered tax agents and BAS agents. The Minister may determine further obligations under the Code which registered tax agents and BAS agents must comply with. This instrument sets out those further obligations.

Subdivision B—Honesty and integrity

10 Upholding and promoting the ethical standards of the tax profession

Independently, and in cooperation with other registered tax agents and BAS agents, you must:

- (a) uphold and promote the Code of Professional Conduct; and
- (b) *not* engage in any conduct that you know, or ought reasonably to know, may:
 - (i) undermine public trust and confidence in the integrity of the tax profession (including conduct that discredits the tax profession or brings the tax profession into disrepute); or
 - (ii) undermine public trust and confidence in the integrity of the tax system; and
- (c) *not* engage in any conduct that you know, or ought reasonably to know, may undermine the collective work of registered tax agents and BAS agents, as a tax profession, to uphold and promote:
 - (i) the Code of Professional Conduct; and
 - (ii) public trust and confidence in the integrity of the tax profession and tax system; and
 - (iii) each member of the profession being held accountable for their individual conduct.

Note: A registered tax agent or BAS agent has an obligation to notify the Board of significant breaches of the Code—see Subdivision 30-C of the Act.

15 False or misleading statements

Statements made to the Board or the Commissioner

- (1) You must *not*:
 - (a) make a statement to the Board or the Commissioner; or

- (b) prepare a statement that you know, or ought reasonably to know, is likely to be made to the Board or Commissioner by an entity; or
- (c) permit or direct someone else to make or prepare such a statement; that you know, or ought reasonably to know, is false, incorrect or misleading in a material particular, or omits any matter or thing without which the statement is misleading in a material respect, in your capacity as a registered tax agent or BAS agent or in any other capacity.

Note: For further obligations relating to false or misleading statements to the Commissioner see section 50-20 of the Act.

- (2) As soon as possible after you become aware that a statement given to the Board or Commissioner was false, incorrect or misleading in a material particular at the time it was made, or omitted any matter or thing without which the statement is misleading in a material respect, you must take all reasonable steps to:
 - (a) where you made the statement (or permitted or directed someone else to make the statement)—correct the statement; and
 - (b) where you prepared the statement (or permitted or directed someone else to prepare the statement)—advise the maker of the statement that the statement should be corrected; and
 - (c) where you prepared the statement and the maker does not correct the statement within a reasonable time—notify the Board or Commissioner that the statement is false, incorrect or misleading in a material particular, or omitted some matter or thing without which the statement is misleading in a material respect.

Statements made to other Australian government agencies

- (3) You must not:
 - (a) make a statement to an Australian government agency (other than the Board or the Commissioner); or
 - (b) prepare a statement that you know, or ought reasonably to know, is likely to be made to an Australian government agency (other than the Board or the Commissioner) by an entity; or
 - (c) permit or direct someone else to make or prepare such a statement; that you know, or ought reasonably to know, is false, incorrect or misleading in a material particular, or omits any matter or thing without which the statement is misleading in a material respect, in your capacity as a registered tax agent or BAS agent or in any other capacity.

Subdivision C—Independence

20 Conflicts of interest in dealings with government

In relation to any activities you undertake for an Australian government agency in a professional capacity, you must:

- (a) take reasonable steps to identify and document any material conflicts of interest (real or apparent) in connection with an activity undertaken for the agency; and

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- (b) disclose the details of any material conflict of interest (real or apparent) that arises in connection with an activity undertaken for the agency to the agency as soon as you become aware of the conflict; and
- (c) take reasonable steps to manage, mitigate, and where appropriate and possible, avoid, any material conflict of interest (real or apparent) that arises in connection with an activity undertaken for the agency (except to the extent that the agency has expressly agreed otherwise).

Subdivision D—Confidentiality

25 Maintaining confidentiality in dealings with government

Disclosure

- (1) Unless you have a legal duty to do so, you must *not* disclose any information you have received, directly or indirectly, from an Australian government agency, in connection with any activities you undertake with the agency in a professional capacity, except to the extent that all of the following apply:
 - (a) it is reasonable to conclude that the information received from the agency was authorised by that agency for further disclosure; and
 - (b) any further disclosure of the information is done consistently with the agency's authorisation.

Note: This subsection would not prohibit disclosure information released by an agency to the general public as it would be reasonable to conclude that such information was authorised for further disclosure. However, further disclosure of that information may be subject to conditions that are expressly imposed by an agency (such as limits on how the information is to be reproduced if attributed to the agency).

Use for personal advantage

- (2) You must *not* use any information you have received, directly or indirectly, from an Australian government agency, in connection with any activities you undertake with the agency in a professional capacity, for your personal advantage, or for the advantage of an associate, employee, employer or client of yours, except to the extent that all of the following apply:
 - (a) it is reasonable to conclude that the information received from the agency was authorised by that agency to be used in a way that may provide for such an advantage; and
 - (b) any further use of the information was done consistently with the agency's authorisation.

Subdivision E—Competence

30 Keeping of proper client records

- (1) You must keep records that correctly record the tax agent services you have provided, or that are provided on your behalf, to each of your clients, including former clients.
- (2) The records must:
 - (a) be in English, or readily accessible and easily convertible into English; and

- (b) be retained for at least 5 years after the service has been provided; and
- (c) show the nature, scope and outcome of the tax agent service provided; and
- (d) include all relevant information considered in the provision of the tax agent service (including information exchanged with the client, advice provided to the client, and for more complex matters: the relevant facts, assumptions and reasoning underpinning any advice provided to the client).

35 Ensuring tax agent services provided on your behalf are provided competently

- (1) You must ensure that each entity providing tax agent services on your behalf maintains knowledge and skills that are relevant to the tax agent services the entity is providing.
- (2) You must ensure that each entity providing tax agent services on your behalf is appropriately supervised, having regard to knowledge and skills of the entity, the tax agent services being provided by the entity, and your system of quality management.

Subdivision F—Other responsibilities

40 Quality management systems

- (1) You must establish and maintain a system of quality management, in relation to the provision of tax agent services by you, or on your behalf, which is designed to provide you with reasonable confidence that you are complying with the Code of Professional Conduct.
- (2) You must document and enforce the policies and procedures of your system of quality management.

Note: A system of quality management includes policies and procedures relating to governance and leadership, monitoring of performance, adherence to the Code of Professional Conduct, client engagement, proper keeping of records, protecting confidentiality of information, the management of conflicts of interest, and the recruitment, training and management of employees.

45 Keeping your clients informed of all relevant matters

Obligation

- (1) You must advise all current and prospective clients, in the manner and form set out in subsection (2), of all of the following:
 - (a) any matter that could significantly influence a decision of a client to engage you, or to continue to engage you, to provide a tax agent service;
 - (b) that the Board maintains a register of tax agents and BAS agents and how they can access and search the register;
 - (c) how they can make a complaint about a tax agent service you have provided, including the complaints process of the Board.

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Manner and form requirements

- (2) Where you are required to advise clients of information covered by subsection (1), you must do so:
- (a) by giving the information mentioned in a paragraph in subsection (1), in writing, to current and prospective clients in a prominent, clear and unambiguous way; and
 - (b) for information mentioned in paragraph (1)(a):
 - (i) if a client makes inquiries to engage or re-engage you to provide tax agent services, and you are aware of the matter at that time—at the time of the inquiry; or
 - (ii) otherwise—within 30 days of becoming aware of the matter; and
 - (c) for information covered by either paragraph (1)(b) or (1)(c)—upon engagement or re-engagement of a client (as the case requires), or upon receiving a relevant request.

Example Whilst not limiting the ways in which a registered tax agent or BAS agent could satisfy subsection (2), an agent who does all of the following, in the form and within the times mentioned in subsection (2), will have given information to all their current and prospective clients as required under this section:

- (a) the agent publishes the information on a publicly accessible website that they use to promote the tax agent services they offer, and
- (b) the agent includes the information in letters of engagement or re-engagement (as case the requires) given to each of their clients.

Part 3—Application and transitional provisions

Division 1—Application

100 Application—instrument as originally made

- (1) Except as otherwise provided in this instrument, the obligations included in this instrument on the day it commences, apply on or after the day this instrument commences.
- (2) To avoid doubt, section 30 (about the keeping of proper client records) applies to tax agent services provided on or after the day this instrument commences.

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Division 2—Transitional

151 Transitional— instrument as originally made

Keeping clients informed of all relevant matters

Despite section 100, section 45 applies in relation to matters that have arisen on or after 1 July 2022. However, clients should be advised of a matter that arose on or before the day this instrument commenced within 90 days from that day.