

2010-2011-2012-2013

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Tax Laws Amendment (2013 Measures
No. 3) Bill 2013**

No. , 2013

(Treasury)

**A Bill for an Act to amend the law relating to
taxation and the *Tax Agent Services Act 2009*, and
for related purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **taxation and the *Tax Agent Services Act 2009*, and**
3 **for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Tax Laws Amendment (2013*
7 *Measures No. 3) Act 2013*.

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.
13

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, items 1 to 9	1 July 2014.	1 July 2014
3. Schedule 1, item 10	1 January 2016.	1 January 2016
4. Schedule 1, items 11 to 46	1 July 2014.	1 July 2014
5. Schedule 1, item 47	1 July 2013.	1 July 2013
6. Schedule 1, items 48 to 51	1 July 2014.	1 July 2014
7. Schedule 2	The day after this Act receives the Royal Assent.	
8. Schedule 3	The day this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

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

7 **3 Schedule(s)**

8 (1) Each Act, and each set of regulations, that is specified in a
9 Schedule to this Act is amended or repealed as set out in the
10 applicable items in the Schedule concerned, and any other item in a
11 Schedule to this Act has effect according to its terms.

12 (2) The amendment of any regulation under subsection (1) does not
13 prevent the regulation, as so amended, from being amended or
14 repealed by the Governor-General.

1 **Schedule 1—Creating a regulatory framework**
2 **for tax (financial) advice services**

3 **Part 1—Main amendments**

4 *Tax Agent Services Act 2009*

5 **1 Paragraphs 2-5(a), (b) and (c)**

6 Omit “and BAS agents”, substitute “, BAS agents and tax (financial)
7 advisers”.

8 **2 Section 20-1**

9 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
10 adviser”.

11 **3 Section 20-5 (heading)**

12 Omit “or BAS agent”, substitute “, **BAS agent or tax (financial)**
13 **adviser**”.

14 **4 Subsection 20-5(1)**

15 Omit “or BAS agent” (wherever occurring), substitute “, BAS agent or
16 tax (financial) adviser”.

17 **5 Subsection 20-5(2)**

18 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
19 adviser”.

20 **6 At the end of paragraph 20-5(2)(c)**

21 Add:

22 ; or (iii) in the case of registration as a *registered tax (financial)
23 adviser—taking into account the requirements of
24 paragraphs 912A(1)(d) to (f) of the *Corporations Act*
25 *2001*, a sufficient number of individuals, being
26 registered tax agents or registered tax (financial)
27 advisers, to provide *tax (financial) advice services to a
28 competent standard, and to carry out supervisory
29 arrangements.

1 **7 Subsection 20-5(3)**

2 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
3 adviser”.

4 **8 At the end of paragraph 20-5(3)(d)**

5 Add:

6 ; or (iii) in the case of registration as a *registered tax (financial)
7 adviser—taking into account the requirements of
8 paragraphs 912A(1)(d) to (f) of the *Corporations Act*
9 *2001*, a sufficient number of individuals, being
10 registered tax agents or registered tax (financial)
11 advisers, to provide *tax (financial) advice services to a
12 competent standard, and to carry out supervisory
13 arrangements.

14 **9 Section 20-10**

15 Omit “and BAS agents”, substitute “, BAS agents and tax (financial)
16 advisers”.

17 **10 Subsection 20-20(1)**

18 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
19 adviser”.

20 **11 Paragraph 20-25(7)(a)**

21 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
22 adviser”.

23 **12 Subsection 20-30(2)**

24 Repeal the subsection, substitute:

- 25 (2) The Board must also notify:
- 26 (a) in the case of an entity’s registration as a *registered tax
27 agent, BAS agent or tax (financial) adviser—the
28 Commissioner of the Board’s decision; and
 - 29 (b) in the case of an entity’s registration as a *registered tax
30 (financial) adviser—the Australian Securities and
31 Investments Commission of the Board’s decision.

1 **13 Subsection 20-40(1)**

2 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
3 adviser”.

4 **14 Section 20-45**

5 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
6 adviser”.

7 **15 Sections 30-1 and 30-5**

8 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
9 adviser”.

10 **16 Subsection 30-10(5)**

11 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
12 adviser”.

13 **17 Paragraph 30-20(1)(b)**

14 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
15 adviser”.

16 **18 Subsections 30-25(4) and 30-35(1), (2) and (3)**

17 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
18 adviser”.

19 **19 Subsections 40-5(1), 40-10(1) and 40-15(1)**

20 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
21 adviser”.

22 **20 Subsection 40-20(3)**

23 Repeal the subsection, substitute:

24 (3) The Board must also notify:

25 (a) in the case of an entity’s registration as a *registered tax
26 agent, BAS agent or tax (financial) adviser—the

27 Commissioner of the Board’s decision and the reasons for the
28 decision; and

29 (b) in the case of an entity’s registration as a *registered tax
30 (financial) adviser—the Australian Securities and

1 Investments Commission of the Board’s decision and the
2 reasons for the decision.

3 **21 Section 50-1**

4 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
5 adviser”.

6 **22 Paragraph 50-5(1)(b)**

7 After “*BAS service”, insert “or a *tax (financial) advice service”.

8 **23 After subsection 50-5(2)**

9 Insert:

10 (2A) You contravene this subsection if:

- 11 (a) you provide a service that you know, or ought reasonably to
12 know, is a *tax (financial) advice service; and
13 (b) the tax (financial) advice service is not a *BAS service; and
14 (c) you charge or receive a fee or other reward for providing the
15 tax (financial) advice service; and
16 (d) you are not a *registered tax agent or a *registered tax
17 (financial) adviser; and
18 (e) in the case of you providing the tax (financial) advice service
19 as a legal service—you are prohibited, under a *State law or
20 *Territory law that regulates legal practice and the provision
21 of legal services, from providing that tax (financial) advice
22 service.

23 Civil penalty:

- 24 (a) for an individual—250 penalty units; and
25 (b) for a body corporate—1,250 penalty units.

26 Note: Subdivision 50-C of this Act and Subdivision 298-B in Schedule 1 to
27 the *Taxation Administration Act 1953* determine the procedure for
28 obtaining a civil penalty order against you.

29 **24 Paragraph 50-10(1)(b)**

30 After “*BAS service”, insert “or a *tax (financial) advice service”.

31 **25 After subsection 50-10(2)**

32 Insert:

1 (2A) You contravene this subsection if:

- 2 (a) you advertise that you will provide a *tax (financial) advice
3 service; and
4 (b) the tax (financial) advice service is not a *BAS service; and
5 (c) you are not a *registered tax agent or a *registered tax
6 (financial) adviser; and
7 (d) where the tax (financial) advice service would be provided as
8 a legal service—you are prohibited, under a *State law or
9 *Territory law that regulates legal practice and the provision
10 of legal services, from providing that tax (financial) advice
11 service.

12 Civil penalty:

- 13 (a) for an individual—50 penalty units; and
14 (b) for a body corporate—250 penalty units.

15 Note: Subdivision 50-C of this Act and Subdivision 298-B in Schedule 1 to
16 the *Taxation Administration Act 1953* determine the procedure for
17 obtaining a civil penalty order against you.

18 **26 Section 50-15 (heading)**

19 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
20 adviser”.

21 **27 Paragraph 50-15(a)**

22 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
23 adviser”.

24 **28 Subparagraph 50-25(1)(c)(i)**

25 Omit “or BAS agent” (wherever occurring), substitute “, BAS agent or
26 tax (financial) adviser”.

27 **29 After subsection 50-25(1)**

28 Insert:

29 (1A) You contravene this subsection if:

- 30 (a) you are a *registered tax (financial) adviser; and
31 (b) you employ or use the services of an entity to provide *tax
32 (financial) advice services on your behalf; and
33 (c) you know, or ought reasonably to know, that:

- 1 (i) the entity is not a registered tax (financial) adviser but
2 was previously a registered tax (financial) adviser; or
3 (ii) the entity is not a registered tax (financial) adviser but
4 was previously a *registered tax agent; or
5 (iii) the entity is not a registered tax agent but was
6 previously a registered tax agent; or
7 (iv) the entity is not a registered tax agent but was
8 previously a registered tax (financial) adviser; and
9 (d) you know, or ought reasonably to know, that the entity's
10 registration was terminated within the period of 1 year before
11 you first employed, or first used the services of, the entity.

12 Civil penalty:

- 13 (a) for an individual—250 penalty units; and
14 (b) for a body corporate—1,250 penalty units.

15 Note: Subdivision 50-C of this Act and Subdivision 298-B in Schedule 1 to
16 the *Taxation Administration Act 1953* determine the procedure for
17 obtaining a civil penalty order against you.

18 **30 Subsection 50-25(2)**

19 Omit “Subsection (1) does”, substitute “Subsections (1) and (1A) do”.

20 **31 Section 60-1**

21 Omit “and BAS agents”, substitute “, BAS agents and tax (financial)
22 advisers”.

23 **32 Section 60-1**

24 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
25 adviser”.

26 **33 Paragraph 60-15(a)**

27 Omit “and BAS agents”, substitute “, BAS agents and tax (financial)
28 advisers”.

29 **34 Subparagraph 60-125(8)(c)(iii)**

30 Omit “and”.

31 **35 At the end of paragraph 60-125(8)(c)**

32 Add:

1 (iv) if the decision or finding concerns a *registered tax
2 (financial) adviser or a *registered tax agent in relation
3 to providing a *tax (financial) advice service—the
4 Australian Securities and Investments Commission; and

5 **36 At the end of paragraph 60-125(8)(d)**

6 Add:

7 ; and (iii) if subparagraph (c)(iv) applies—the Australian
8 Securities and Investments Commission.

9 **37 Paragraph 60-135(1)(a)**

10 Omit “and BAS agents”, substitute “, BAS agents and tax (financial)
11 advisers”.

12 **38 Paragraph 60-135(1)(b)**

13 Omit all the words after “*registered tax agent”, substitute “, BAS agent
14 or tax (financial) adviser and whose registration has been terminated
15 other than because of a reason prescribed by the regulations”.

16 **39 Subsection 60-135(3)**

17 Omit “or BAS agent” (wherever occurring), substitute “, BAS agent or
18 tax (financial) adviser”.

19 **40 Section 60-140**

20 Omit “or BAS agent” (wherever occurring), substitute “, BAS agent or
21 tax (financial) adviser”.

22 **41 After subsection 70-40(3)**

23 Insert:

24 *Disclosures to the Australian Securities and Investments*
25 *Commission*

26 (3A) Subsection 70-35(1) does not apply if the record or disclosure is to
27 the Australian Securities and Investments Commission for the
28 purpose of the Commission performing any of its functions or
29 exercising any of its powers.

30 Note: A defendant bears an evidential burden in relation to the matters in
31 subsection (3A): see subsection 13.3(3) of the *Criminal Code*.

1 **42 Subsection 90-1(1)**

2 Insert:

3 *financial services licensee* has the same meaning as in Chapter 7
4 of the *Corporations Act 2001*.

5 *registered tax agent, BAS agent or tax (financial) adviser* means
6 an entity that is registered under this Act as a registered tax agent, a
7 registered BAS agent or a registered tax (financial) adviser.

8 *registered tax agents, BAS agents and tax (financial) advisers*
9 means the following:

- 10 (a) entities that are registered under this Act as registered tax
11 agents;
12 (b) entities that are registered under this Act as registered BAS
13 agents;
14 (c) entities that are registered under this Act as registered tax
15 (financial) advisers.

16 *registered tax (financial) adviser* means an entity that is registered
17 under this Act as a registered tax (financial) adviser.

18 Note: In most cases, an entity is taken not to be a registered tax (financial)
19 adviser if the entity is suspended from providing tax (financial) advice
20 services under section 30-25.

21 *representative* has the meaning given by paragraph (a) of the
22 definition of that expression in section 910A of the *Corporations*
23 *Act 2001*.

24 *tax (financial) advice service* has the meaning given by
25 section 90-15.

26 **43 At the end of Division 90**

27 Add:

28 **90-15 Meaning of tax (financial) advice service**

- 29 (1) A *tax (financial) advice service* is a *tax agent service (other than
30 within the meaning of subparagraph (1)(a)(iii) of the definition of
31 that expression) provided by a *financial services licensee or a
32 *representative of a financial services licensee in the course of
33 giving advice of a kind usually given by a financial services

- 1 licensee or a representative of a financial services licensee to the
2 extent that:
- 3 (a) the service relates to:
- 4 (i) ascertaining liabilities, obligations or entitlements of an
5 entity that arise, or could arise, under a *taxation law; or
- 6 (ii) advising an entity about liabilities, obligations or
7 entitlements of the entity or another entity that arise, or
8 could arise, under a taxation law; and
- 9 (b) the service is provided in circumstances where the entity can
10 reasonably be expected to rely on the service for either or
11 both of the following purposes:
- 12 (i) to satisfy liabilities or obligations that arise, or could
13 arise, under a taxation law;
- 14 (ii) to claim entitlements that arise, or could arise, under a
15 taxation law.
- 16 (2) The Board may, by legislative instrument, specify that another
17 service is a **tax (financial) advice service**.
- 18 (3) However, a service is not a **tax (financial) advice service** if:
- 19 (a) it consists of preparing a return or a statement in the nature of
20 a return; or
- 21 (b) it is specified in the regulations for the purposes of this
22 paragraph.

1 **Part 2—Consequential amendments**

2 *Income Tax Assessment Act 1997*

3 **44 Subsection 995-1(1) (paragraph (a) of the definition of**
4 **recognised tax adviser)**

5 Omit “or BAS agent”, substitute “, BAS agent or tax (financial)
6 adviser”.

7 **45 Subsection 995-1(1)**

8 Insert:

9 *registered tax agent, BAS agent or tax (financial) adviser* has the
10 same meaning as in the *Tax Agent Services Act 2009*.

11 **46 Subsection 995-1(1) (definition of registered tax agent or**
12 **BAS agent)**

13 Repeal the definition.

14 *Tax Agent Services Regulations 2009*

15 **47 Subregulation 13(2)**

16 Omit “30 June 2013”, substitute “30 June 2014”.

1 **Part 3—Transitional provisions**

2 **48 Definitions**

3 In this Part:

4 *authorised representative* has the same meaning as in Chapter 7 of the
5 *Corporations Act 2001*.

6 *entity* has the same meaning as in the *Income Tax Assessment Act 1997*.

7 *evidential burden* has the same meaning as in the new law.

8 *financial services licensee* has the same meaning as in Chapter 7 of the
9 *Corporations Act 2001*.

10 *new law* means the *Tax Agent Services Act 2009*.

11 *notification period* means the period:

12 (a) beginning on 1 July 2014; and

13 (b) ending on 31 December 2015.

14 *representative* has the meaning given by paragraph (a) of the definition
15 of that expression in section 910A of the *Corporations Act 2001*.

16 *taxation law* has the same meaning as in the *Income Tax Assessment*
17 *Act 1997*.

18 *transitional period* means the period:

19 (a) beginning on 1 January 2016; and

20 (b) ending on 30 June 2017.

21 **49 Provision of tax (financial) advice services by certain**
22 **entities during the notification period**

23 *Becoming a registered tax (financial) adviser*

24 (1) If:

25 (a) during the notification period, an entity notifies the Board
26 that the entity provides tax (financial) advice services; and

27 (b) on the day that the Board is notified, the entity is a financial
28 services licensee or an authorised representative of a
29 financial services licensee;

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1 the entity is taken, for the purposes of the new law, to be a registered
2 tax (financial) adviser. The entity's registration commences on the day
3 the Board is notified and expires on the applicable day set out in column
4 2 of the following table:

5

Period of registration as a registered tax (financial) adviser		
	Column 1	Column 2
Item	If an entity notifies the Board during ...	then, the entity's registration expires on ...
1	July, August, September, October, November or December 2014	31 January 2018
2	January, February, March, April, May or June 2015	31 October 2017
3	July, August, September, October, November or December 2015	31 July 2017

6

7 Note: A registered tax (financial) adviser is registered under section 20-25 of the new law.

8 (2) If an entity notifies the Board under subitem (1), the entity's notification
9 must:

- 10 (a) be in a form approved by the Board; and
11 (b) include any information, statement or document required by
12 the Board; and
13 (c) be given to the Board in a way required by the Board.

14 (3) To avoid doubt, if an entity is taken to be a registered tax (financial)
15 adviser under subitem (1), the Board may impose conditions to which
16 the entity's registration is subject.

17 *Services may be provided while unregistered if accompanied by*
18 *disclosure*

19 (4) Despite subsection 50-5(2A) of the new law, a tax (financial) advice
20 service may be provided during the notification period if it is:

- 21 (a) provided by a financial services licensee or a representative
22 of the licensee; and
23 (b) accompanied by a statement that:

- 1 (i) the provider of the advice is not a registered tax
2 (financial) adviser under the new law; and
3 (ii) if the receiver of the advice intends to rely on the advice
4 to satisfy liabilities or obligations or claim entitlements
5 that arise, or could arise, under a taxation law, the
6 receiver should request advice from a registered tax
7 agent or a registered tax (financial) adviser.
- 8 (5) A person who wishes to rely on subitem (4) in proceedings for a
9 contravention of a civil penalty provision bears an evidential burden in
10 relation to the matters in that subitem.

11 **50 Registering as a registered tax (financial) adviser during** 12 **the transitional period**

- 13 If:
- 14 (a) an entity is a financial services licensee or a representative of
15 a financial services licensee (other than an entity taken to be
16 a registered tax (financial) adviser under item 49 of this
17 Schedule); and
18 (b) the entity applies for registration as a registered tax
19 (financial) adviser under section 20-20 of the new law during
20 the transitional period; and
21 (c) the entity would be eligible for registration but for the
22 operation of:
23 (i) paragraph 20-5(1)(b) of the new law (which requires the
24 Board to be satisfied of requirements prescribed by
25 regulations, including requirements in relation to
26 qualifications and experience in respect of registration
27 as a registered tax (financial) adviser); or
28 (ii) subparagraph 20-5(2)(c)(iii) or (3)(d)(iii) of the new
29 law; and
30 (d) the Board is satisfied that the entity has sufficient experience
31 to be able to provide tax (financial) advice services to a
32 competent standard;
- 33 then, despite paragraph 20-5(1)(b), (2)(c) or (3)(d) of the new law, the
34 entity is eligible for registration.

35 **51 Transitional regulations**

- 36 (1) The Governor-General may make regulations prescribing matters:
37 (a) required or permitted by this Part to be prescribed; and
-

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- 1 (b) necessary or convenient to be prescribed for carrying out or
2 giving effect to this Part.
- 3 (2) In particular, regulations may be made prescribing matters of a
4 transitional nature (including any saving or application provisions)
5 relating to the amendments or repeals made by Part 1 or 2 of this
6 Schedule.
- 7 (3) Subitem (2) does not limit subitem (1).

1 **Schedule 2—Other amendments to the Tax**
2 **Agent Services Act 2009**
3

4 **1 At the end of subsection 20-5(1)**

5 Add:

6 ; and (c) the individual maintains, or will be able to maintain,
7 professional indemnity insurance that meets the Board's
8 requirements; and

9 (d) in the case of a renewal of registration—the individual has
10 completed continuing professional education that meets the
11 Board's requirements.

12 **2 At the end of subsection 20-5(2)**

13 Add:

14 ; and (d) the partnership maintains, or will be able to maintain,
15 professional indemnity insurance that meets the Board's
16 requirements.

17 **3 At the end of subsection 20-5(3)**

18 Add:

19 ; and (e) the company maintains, or will be able to maintain,
20 professional indemnity insurance that meets the Board's
21 requirements.

22 **4 Subsection 30-10(13)**

23 Repeal the subsection, substitute:

24 (13) You must maintain professional indemnity insurance that meets the
25 Board's requirements.

26 **5 At the end of subsection 30-35(1)**

27 Add:

28 ; or (c) there is a change in your business or email address or of any
29 other circumstances relevant to your registration.

30 **6 At the end of subsection 30-35(2)**

31 Add:

1 ; or (d) there is a change in your business or email address or of any
2 other circumstances relevant to your registration.

3 **7 At the end of subsection 30-35(3)**

4 Add:

5 ; or (d) there is a change in your business or email address or of any
6 other circumstances relevant to your registration.

7 **8 At the end of section 40-5**

8 Add:

9 (3) Despite paragraph (2)(a), the Board need not terminate your
10 registration if:

11 (a) you surrender your registration by notice in writing to the
12 Board; and

13 (b) the Board considers that, due to a current investigation or the
14 outcome of an investigation, it would be inappropriate to
15 terminate your registration.

16 **9 After subsection 40-10(2)**

17 Insert:

18 (2A) Despite subsection (2), the Board need not terminate your
19 registration if:

20 (a) you surrender your registration by notice in writing to the
21 Board; and

22 (b) the Board considers that, due to a current investigation or the
23 outcome of an investigation, it would be inappropriate to
24 terminate your registration.

25 **10 After subsection 40-15(2)**

26 Insert:

27 (2A) Despite paragraph (2)(a), the Board need not terminate your
28 registration if:

29 (a) you surrender your registration by notice in writing to the
30 Board; and

31 (b) the Board considers that, due to a current investigation or the
32 outcome of an investigation, it would be inappropriate to
33 terminate your registration.

1 **11 Subsection 50-5(5)**

2 Omit “evidential burden”, substitute “*evidential burden”.

3 **12 After subsection 50-10(4)**

4 Insert:

5 (4A) If you wish to rely on subsection (3) or (4) in civil penalty
6 proceedings, you bear an *evidential burden in relation to that
7 matter.

8 **13 Paragraph 50-30(1)(b)**

9 Repeal the paragraph, substitute:

10 (b) in the course of providing a *tax agent service, you sign a
11 declaration or other statement in relation to a taxpayer that is
12 required or permitted by a *taxation law; and

13 **14 Paragraph 50-30(2)(b)**

14 Repeal the paragraph, substitute:

15 (b) in the course of providing a *BAS service, you sign a
16 declaration or other statement in relation to a taxpayer that is
17 required or permitted by a *taxation law; and

18 **15 Paragraph 50-30(3)(b)**

19 Repeal the paragraph, substitute:

20 (b) in the course of providing a *tax agent service, you sign a
21 declaration or other statement in relation to a taxpayer that is
22 required or permitted by a *taxation law; and

23 **16 Paragraph 50-30(4)(b)**

24 Repeal the paragraph, substitute:

25 (b) in the course of providing a *BAS service, you sign a
26 declaration or other statement in relation to a taxpayer that is
27 required or permitted by a *taxation law; and

28 **17 Subsection 50-30(5)**

29 Omit “evidential burden”, substitute “*evidential burden”.

30 **18 Paragraph 60-25(2)(a)**

31 After “law of the Commonwealth”, insert “on a full-time basis”.

1 **19 At the end of Subdivision 60-B**

2 Add:

3 **60-67 Acting appointments**

4 (1) The Minister may, by written instrument, appoint a *Board member
5 to act as the *Chair:

6 (a) during a vacancy in the office of the Chair (whether or not an
7 appointment has previously been made to the office); or

8 (b) during any period, or during all periods, when the Chair:

9 (i) is absent from duty or from Australia; or

10 (ii) is, for any reason, unable to perform the duties of the
11 office.

12 (2) However, the *Board member appointed to act as the *Chair must
13 not be:

14 (a) a person who holds any office or appointment (other than as a
15 Board member) under a law of the Commonwealth on a
16 full-time basis; or

17 (b) a person appointed or engaged under the *Public Service Act*
18 *1999*.

19 (3) The Minister may, by written instrument, appoint a person to act as
20 a *Board member:

21 (a) during a vacancy in the office of a Board member (whether
22 or not an appointment has previously been made to the
23 office); or

24 (b) during any period, or during all periods, when a Board
25 member:

26 (i) is absent from duty or from Australia; or

27 (ii) is, for any reason, unable to perform the duties of the
28 office.

29 Note: For rules that apply to acting appointments, see sections 33AB and
30 33A of the *Acts Interpretation Act 1901*.

31 **20 After subparagraph 60-125(8)(c)(ii)**

32 Insert:

33 (ia) any professional association accredited by the Board
34 under the regulations of which the entity is a member;

1 **21 After subparagraph 60-125(8)(d)(i)**

2 Insert:

- 3 (ia) if subparagraph (c)(iia) applies—the relevant
4 professional association; and

5 **22 Paragraph 70-10(b)**

6 Repeal the paragraph.

7 **23 After paragraph 70-10(g)**

8 Insert:

- 9 (ga) a decision under Subdivision 40-A not to terminate
10 registration;

11 **24 Subsection 70-30(1)**

12 Repeal the subsection, substitute:

- 13 (1) Subject to subsections (1A) and (2), the Board may, by writing,
14 delegate all or any of its functions and powers to:
15 (a) a *Board member; or
16 (b) a *committee; or
17 (c) an APS employee whose services are made available to the
18 Board under section 60-80; or
19 (d) to a person engaged by the Board.
- 20 (1A) The Board may not delegate:
21 (a) its function of issuing guidelines; or
22 (b) its power to establish a committee under section 60-85.

23 **25 Subsection 70-40(3)**

24 Repeal the subsection, substitute:

- 25 (3) Subsection 70-35(1) does not apply if the record or disclosure is to
26 the Commissioner and is for the purpose of administering a
27 *taxation law.

28 Note: A defendant bears an evidential burden in relation to the matters in
29 subsection (3): see subsection 13.3(3) of the *Criminal Code*.

30 **26 Subsection 90-1(1)**

31 Insert:

1 *evidential burden*, in relation to a matter, means the burden of
2 adducing or pointing to evidence that suggests a reasonable
3 possibility that the matter exists or does not exist.

4 **27 After subsection 90-10(1)**

5 Insert:

6 (1A) The Board may, by legislative instrument, specify that another
7 service is a *BAS service*.

8 **28 Application of amendments**

9 (1) The amendments made by items 1 to 3 and 22 of this Schedule apply in
10 relation to an application for registration, including renewal of
11 registration, as a registered tax agent, BAS agent or tax (financial)
12 adviser that is made on or after the day this item commences.

13 (2) The amendments made by items 8 to 10 of this Schedule apply in
14 relation to a notice in writing surrendering registration that is received
15 by the Board on or after the day this item commences.

16 (3) The amendment made by item 12 of this Schedule applies in relation to
17 civil penalty proceedings that are brought on or after the day this item
18 commences, even if the advertisement to which the proceedings relate is
19 published or broadcast before that time.

20 (4) The amendments made by items 13 to 16 of this Schedule apply in
21 relation to a declaration or other statement that is signed on or after the
22 day this item commences, even if the document to which the declaration
23 or other statement relates is prepared before that time.

24 (5) The amendments made by items 20 and 21 of this Schedule apply in
25 relation to a decision made by the Board on or after the day this item
26 commences, even if the investigation to which the decision relates
27 began before that time.

28 (6) The amendment made by item 25 of this Schedule applies to:
29 (a) a record made on or after the day this item commences, even
30 if the information to which the record relates was acquired
31 before that time; and
32 (b) a disclosure made on or after the day this item commences,
33 even if the information disclosed is contained in a record
34 made before that time.

1 **29 Saving of existing delegations**

2 A delegation in force under section 70-30 of the *Tax Agent Services Act*
3 *2009* immediately before the day this item commences continues to
4 have effect, on and after the day this item commences, as if it were a
5 delegation under that section as amended by this Schedule.

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Schedule 3—Deductible gift recipients

Income Tax Assessment Act 1997

1 Subsection 30-45(2) (after table item 4.2.14)

Insert:

4.2.15	the Australian Council of Social Service Incorporated	the gift must be made after 30 June 2013
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2 Subsection 30-80(2) (after table item 9.2.13)

Insert:

9.2.14	Make a Mark Australia Incorporated	the gift must be made after 30 June 2013
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3 Section 30-315 (after table item 20A)

Insert:

21	Australian Council of Social Service Incorporated	item 4.2.15
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4 Section 30-315 (after table item 68AB)

Insert:

68B	Make a Mark Australia Incorporated	item 9.2.14
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