Tax Laws Amendment (Tax Agent Services) Bill 2007

No.      , 2007

(Treasury)

A Bill for an Act to amend the law relating to taxation, and for related purposes
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A Bill for an Act to amend the law relating to taxation, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Tax Laws Amendment (Tax Agent Services) Act 2007.

2 Commencement

(1) Each provision of this Act 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

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<tr>
<td>Provision(s)</td>
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</tr>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day on which this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1</td>
<td>A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 9 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.</td>
<td></td>
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<tr>
<td>3. Schedule 2</td>
<td>Immediately after the commencement of the provisions covered by table item 2.</td>
<td></td>
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Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments

Fringe Benefits Tax Assessment Act 1986

1 Part IX

    Repeal the Part.

Income Tax Assessment Act 1936

2 Part VIIA

    Repeal the Part.

Income Tax Assessment Act 1997

3 Subsection 995-1(1)

    Insert:

        BAS service has the meaning given by section 602-15 in
        Schedule 1 to the Taxation Administration Act 1953.

4 Subsection 995-1(1)

    Insert:

        BAS service provider means an entity that is registered under
        Part 5-90 in Schedule 1 to the Taxation Administration Act 1953 as
        a BAS service provider.

Note: An entity is taken not to be a BAS service provider if the entity is
suspended from providing BAS services under section 604-25 in
Schedule 1 to the Taxation Administration Act 1953.

5 Subsection 995-1(1)

    Insert:

        Code of Professional Conduct means the Code of Professional
        Conduct set out in section 604-10 in Schedule 1 to the Taxation
        Administration Act 1953.

6 Subsection 995-1(1)

    Insert:
fit and proper person has a meaning affected by section 602-45 in Schedule 1 to the Taxation Administration Act 1953.

7 Subsection 995-1(1)
Insert:

nominee:
(a) of a "tax agent, means an individual registered under Part 5-90 in Schedule 1 to the Taxation Administration Act 1953 as a nominee of the tax agent; or
(b) of a "BAS service provider, means an individual registered under Part 5-90 in Schedule 1 to the Taxation Administration Act 1953 as a nominee of the BAS service provider.

Note: An individual is taken not to be a nominee if the individual is suspended under section 604-25 in Schedule 1 to the Taxation Administration Act 1953.

8 Subsection 995-1(1)
Insert:

prescribed BAS service provider requirements has the meaning given by paragraph 602-30(1)(b) in Schedule 1 to the Taxation Administration Act 1953.

9 Subsection 995-1(1)
Insert:

prescribed tax agent requirements has the meaning given by paragraph 602-30(1)(b) in Schedule 1 to the Taxation Administration Act 1953.

10 Subsection 995-1(1)
Insert:

relevant adverse event has the meaning given by section 602-50 in Schedule 1 to the Taxation Administration Act 1953.

11 Subsection 995-1(1)
Insert:

secrecy provision means a provision of a law of the Commonwealth that purports to prohibit the communication,
divulging or publication of information, the production of, or the
publication of the contents of, a document, or the production of a
thing.

12 Subsection 995-1(1)

Insert:

serious taxation offence means:

(a) an offence against section 134.1, 134.2, 135.1, 135.2 or 135.4
of the Criminal Code, if the offence relates to a tax liability
(as defined by the Taxation Administration Act 1953); or
(b) an offence that is:

(i) a taxation offence within the meaning of Part III of the
Taxation Administration Act 1953; and

(ii) punishable on conviction by a fine exceeding 40 penalty
units, or imprisonment, or both.

Note: See section 4AA of the Crimes Act 1914 for the current value of
a penalty unit.

13 Subsection 995-1(1)

Insert:

tax agent means an entity that is registered under Part 5-90 in
Schedule 1 to the Taxation Administration Act 1953 as a tax agent.

Note: An entity is taken not to be a tax agent if the entity is suspended from
providing tax agent services under section 604-25 in Schedule 1 to the
Taxation Administration Act 1953.

14 Subsection 995-1(1)

Insert:

tax agent service has the meaning given by section 602-10 in
Schedule 1 to the Taxation Administration Act 1953.

15 Subsection 995-1(1)

Insert:

tax practitioner registration requirements means the matters about
which the Board must, under Subdivision 602-B in Schedule 1 to
the Taxation Administration Act 1953, be satisfied before the
Board is obliged to grant an application for registration under Part 5-90 in that Schedule.

Taxation Administration Act 1953

16 After subsection 284-75(1) in Schedule 1

Insert:

(1A) However, you are not liable to an administrative penalty under subsection (1) if:

(a) you engage an entity that is registered under Part 5-90 in this Schedule; and
(b) you give to the entity all relevant taxation information; and
(c) the entity makes the statement; and
(d) the statement results in a `shortfall amount; and
(e) the shortfall amount did not result from:

(i) intentional disregard by you or the entity of a `taxation law; or
(ii) recklessness by you or the entity as to the operation of a taxation law.

17 Section 298-80 in Schedule 1 (at the end of the table)

Add:

2 Part 5-90 Civil penalties for the provision of tax agent services

18 At the end of Schedule 1

Add:

Part 5-90—Provision of tax agent services

Division 600—Guide to Part 5-90

600-1 What this Part is about

You must be registered by the Tax Practitioners Board (the Board) if you engage in various types of conduct connected with providing tax agent services.

6 Tax Laws Amendment (Tax Agent Services) Bill 2007 No. , 2007
Once registered, you must comply with several requirements, in particular, the Code of Professional Conduct.

600-5 Objects of this Part

The objects of this Part are:

(a) to establish a Board to ensure that the regulation of *tax agents, *BAS service providers and their *nominees is consistent with the self assessment system; and

(b) to provide for sanctions to discipline tax agents, BAS service providers and their nominees; and

(c) to introduce a *Code of Professional Conduct for tax agents, BAS service providers and their nominees.

Division 602—The requirement to register

Table of Subdivisions

Guide to Division 602

602-A Conduct that is prohibited without registration

602-B Registration

602-C Termination of registration

Guide to Division 602

602-1 What this Division is about

You are liable for a civil penalty if you provide tax agent services for a fee, advertise provision of tax agent services, or represent yourself as registered, unless you are registered under this Part.

Registration is undertaken by the Board. You must meet certain requirements before you are eligible for registration under this Part.

Registration may be terminated in certain situations.
Subdivision 602-A—Conduct that is prohibited without registration

Table of sections

602-5 Providing tax agent services if unregistered
602-10 What is a tax agent service?
602-15 What is a BAS service?
602-20 Advertising tax agent services if unregistered
602-25 Representing that you are a tax agent or BAS service provider if unregistered

602-5 Providing tax agent services if unregistered

(1) You are liable for a civil penalty if:

(a) you provide a service that you know, or ought reasonably to know, is a "tax agent service" (other than a "BAS service"); and

(b) you demand or receive a fee for providing the tax agent service; and

(c) you are not one of the following:

(i) a "tax agent;"

(ii) a "legal practitioner covered by subsection (3)."

Civil penalty:

(a) for an individual—250 penalty units;

(b) for a body corporate—1,250 penalty units.

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Note 2: Subdivision 606-B in this Schedule determines the procedure for obtaining a civil penalty order against you.

(2) You are liable for a civil penalty if:

(a) you provide a service that you know, or ought reasonably to know, is a "BAS service; and

(b) you demand or receive a fee for providing the BAS service; and

(c) you are not one of the following:

(i) a "tax agent;"

(ii) a "BAS service provider;"

(iii) a "legal practitioner covered by subsection (3);"
(iv) where the BAS service relates to imports or exports to which an "indirect tax law applies—a customs broker licensed under Part XI of the Customs Act 1901.

Civil penalty:
(a) for an individual—250 penalty units;
(b) for a body corporate—1,250 penalty units.

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Note 2: Subdivision 606-B in this Schedule determines the procedure for obtaining a civil penalty order against you.

(3) A "legal practitioner is covered by this subsection if the legal practitioner is acting in the course of his or her profession to provide:
(a) if the legal practitioner is acting for a trust or deceased estate as trustee or legal personal representative—any "tax agent service; or
(b) in any other case—a tax agent service other than the preparation or lodgment of a return.

602-10 What is a tax agent service?

(1) A tax agent service is any service that relates to:
(a) ascertaining or satisfying the liabilities, obligations or entitlements of an entity under a "taxation law; or
(b) advising an entity about the liabilities, obligations or entitlements of the entity under a taxation law;
and that is provided in circumstances where the entity can reasonably be expected to rely on the service.

(2) A service provided by a person in the course of performing duties in the Australian Taxation Office is not a tax agent service.

(3) A service specified in the regulations for the purposes of this subsection is not a tax agent service.

Note: For specification by class, see subsection 13(3) of the Legislative Instruments Act 2003.

602-15 What is a BAS service?

(1) A BAS service is a "tax agent service that relates to:
(a) ascertaining or satisfying the liabilities, obligations or entitlements of an entity under a "BAS provision; or
(b) advising an entity about the liabilities, obligations or entitlements of the entity under a BAS provision;
and that is provided in circumstances where the entity can reasonably be expected to rely on the service.

(2) A service provided by a person in the course of performing duties in the Australian Taxation Office is not a BAS service.

(3) A service specified in the regulations for the purposes of this subsection is not a BAS service.

Note: For specification by class, see subsection 13(3) of the Legislative Instruments Act 2003.

602-20 Advertising tax agent services if unregistered

(1) You are liable for a civil penalty if:
   (a) you advertise that you will provide a "tax agent service (other than a "BAS service); and
   (b) you are not:
      (i) a "tax agent; or
      (ii) a "legal practitioner covered by subsection (3); or
      (iii) a person providing services on a voluntary basis under a scheme approved by the Commissioner by notice published in the Gazette.

Civil penalty:
   (a) for an individual—50 penalty units;
   (b) for a body corporate—250 penalty units.

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.
Note 2: Subdivision 606-B in this Schedule determines the procedure for obtaining a civil penalty order against you.

(2) You are liable for a civil penalty if:
   (a) you advertise that you will provide a "BAS service; and
   (b) you are not:
      (i) a "tax agent; or
      (ii) a "BAS service provider; or
      (iii) a "legal practitioner covered by subsection (3); or
(iv) if the BAS service relates to imports or exports to which
an "indirect tax law applies—a customs broker licensed
under Part XI of the Customs Act 1901; or
(v) a person providing services on a voluntary basis under a
scheme approved by the Commissioner by notice
published in the Gazette.

Civil penalty:
(a) for an individual—50 penalty units;
(b) for a body corporate—250 penalty units.

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a
penalty unit.

Note 2: Subdivision 606-B in this Schedule determines the procedure for
obtaining a civil penalty order against you.

(3) A "legal practitioner is covered by this subsection if the legal
practitioner is acting in the course of his or her profession to
provide:
(a) if the legal practitioner is acting for a trust or deceased estate
as trustee or legal personal representative—any "tax agent
service; or
(b) in any other case—a tax agent service other than the
preparation or lodgment of a return.

(4) A notice under subparagraph (1)(b)(iii) or (2)(b)(v) is not a
legislative instrument.

602-25 Representing that you are a tax agent or BAS service
provider if unregistered

You are liable for a civil penalty if:
(a) you represent that you are either a "tax agent or a "BAS
service provider, or both; and
(b) that representation is untrue.

Civil penalty:
(a) for an individual—50 penalty units;
(b) for a body corporate—250 penalty units.

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a
penalty unit.
Note 2: Subdivision 606-B in this Schedule determines the procedure for obtaining a civil penalty order against you.

Subdivision 602-B—Registration

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602-30  Eligibility for registration as tax agent or BAS service provider

Individually

(1) An individual is eligible for registration as a "tax agent or a "BAS service provider if the Board is satisfied that:

(a) the individual is a "fit and proper person; and

(b) the individual meets the requirements prescribed by the regulations (including, but not limited to, requirements relating to qualifications and experience) in respect of registration as a tax agent or a BAS service provider, as the case requires; and

(c) the individual "carries on, or proposes to carry on, a "business that provides "tax agent services or "BAS services, as the case requires.

Note 1: The reference in paragraph (c) to an individual includes a reference to an individual who is acting in the capacity of a trustee of a trust that carries on, or proposes to carry on, a business that provides tax agent services or BAS services.

Note 2: Subsection (4) provides for an exception to paragraph (b) for pre-1988 tax agents.
Partnerships

(2) A partnership is eligible for registration as a "tax agent or a "BAS service provider if the Board is satisfied that:

(a) each partner who is an individual is a "fit and proper person; and

(b) if a company is a partner:
   (i) each director of the company is a "fit and proper person; and
   (ii) the company is not under external administration; and
   (iii) the company has not been convicted of a "serious taxation offence or an offence involving fraud or dishonesty during the previous 5 years; and

(c) the partnership has available sufficient resources (including financial, technological and appropriately qualified human resources) to provide "tax agent services or "BAS services, as the case requires, to a competent standard, and to carry out supervisory arrangements; and

(d) the partnership "carries on, or proposes to carry on, a "business that provides tax agent services or BAS services, as the case requires.

Companies

(3) A company is eligible for registration as a "tax agent or a "BAS service provider if the Board is satisfied that:

(a) each director of the company is a "fit and proper person; and

(b) the company is not under external administration; and

(c) the company has not been convicted of a "serious taxation offence or an offence involving fraud or dishonesty during the previous 5 years; and

(d) the company has available sufficient resources (including financial, technological and appropriately qualified human resources) to provide "tax agent services or "BAS services, as the case requires, to a competent standard, and to carry out supervisory arrangements; and

(e) the company "carries on, or proposes to carry on, a "business that provides tax agent services or BAS services, as the case requires.
Note: The reference in paragraph (e) to a company includes a reference to a company that is acting in the capacity of a trustee of a trust that carries on, or proposes to carry on, a business that provides tax agent services or BAS services.

Special rule about pre-1988 tax agents

(4) An individual is eligible for registration as a *tax agent even if the Board is not satisfied that the individual satisfies the requirements mentioned in paragraph (1)(b) if:

(a) the individual was registered as a tax agent for the purposes of Part VlA of the Income Tax Assessment Act 1936 (as in force immediately before the commencement of item 2 of Schedule 1 to the Tax Laws Amendment (Tax Agent Services) Act 2007) both:

(i) immediately before the commencement of this Part; and

(ii) immediately before the commencement of section 39 of the Taxation Laws Amendment Act (No. 2) 1988; and

(b) the individual is otherwise eligible for registration as a tax agent.

602-35 Eligibility for registration as a nominee

(1) An individual who would be eligible for registration as a *tax agent but for paragraph 602-30(1)(c) in this Schedule is eligible to be registered as a *nominee of a specified tax agent.

(2) An individual who would be eligible for registration as a *BAS service provider but for paragraph 602-30(1)(c) in this Schedule is eligible to be registered as a *nominee of a specified BAS service provider.

Note: Paragraph 602-30(1)(c) in this Schedule requires that to be registered as a tax agent or a BAS service provider, an individual must be carrying on, or proposes to carry on, a business that provides tax agent services or BAS services.

602-40 Regulations may prescribe scheme about professional qualifications

The regulations may prescribe a scheme relating to the recognition of professional qualifications and experience of *tax agents and *BAS service providers and, without limiting this subsection, may:
(a) provide for a system of accreditation of professional associations for the purposes of the scheme; and
(b) confer functions on the Board in relation to developing and administering the system of accreditation (including, but not limited to, functions relating to the investigation of professional associations for those purposes).

602-45 Criteria for determining whether an individual is a fit and proper person

(1) In deciding whether it is satisfied that an individual is a fit and proper person, the Board must have regard to:
   (a) whether the individual is of good fame, integrity and character; and
   (b) without limiting paragraph (a), whether a relevant adverse event has happened to the individual during the previous 5 years.

(2) The Board cannot be satisfied that an individual aged under 18 years is a fit and proper person.

602-50 What is a relevant adverse event?

A relevant adverse event happens to you if one or more of the following applies:
   (a) you are convicted of a serious taxation offence;
   (b) you are convicted of an offence involving fraud or dishonesty;
   (c) you are penalised for being a promoter of a tax exploitation scheme within the meaning of Division 290 in this Schedule;
   (d) you become an undischarged bankrupt or go into external administration;
   (e) you are sentenced to a term of imprisonment.

602-55 Application for registration

(1) You may apply to the Board for registration, including renewal of registration, of a type mentioned in column 2 of the table in subsection (2).
### Types of registration

(2) This table sets out the type of registration for which you may apply.

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<thead>
<tr>
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<th>Type of registration</th>
<th>Provision in this Schedule that sets out eligibility requirements for that type of registration</th>
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<td>Registration of an individual as a *BAS service provider</td>
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<td>3</td>
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<td>Registration of a partnership as a *BAS service provider</td>
<td>Subsection 602-30(2)</td>
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<tr>
<td>5</td>
<td>Registration of a company as a *tax agent</td>
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<tr>
<td>6</td>
<td>Registration of a company as a *BAS service provider</td>
<td>Subsection 602-30(3)</td>
</tr>
<tr>
<td>7</td>
<td>Registration of an individual as a *nominee of a *tax agent</td>
<td>Subsection 602-35(1)</td>
</tr>
<tr>
<td>8</td>
<td>Registration of an individual as a *nominee of a *BAS service provider</td>
<td>Subsection 602-35(2)</td>
</tr>
</tbody>
</table>

(3) An application under subsection (1) must be in a form approved by the Board and must be accompanied by:

(a) any documents that are required by the Board; and

(b) the prescribed application fee (if any).

(4) The Board must give the application fee to the Commissioner, who receives the fee (if any) on behalf of the Commonwealth.

(5) If you withdraw an application made under subsection (1):

(a) within 30 days after the day on which the application was made; and

(b) before the application has been granted or refused;
the Commissioner must refund the application fee (if any) to you.

602-60 Registration

Grant of application for registration

(1) If you have applied to the Board for registration of a type mentioned in column 2 of subsection 602-55(2) in this Schedule, the Board must grant your application if you are eligible for registration of that type. Otherwise, the Board must reject your application.

(2) The Board must decide your application within 6 months of receiving it.

(3) If the Board does not comply with subsection (2), the Board is taken to have rejected your application.

Note: Section 602-70 in this Schedule specifies a different rule for renewals.

Notification of decision

(4) The Board must, within 30 days of the decision, notify you in writing of:

(a) the decision; and

(b) if the Board rejects your application—the reasons for the decision.

However, failure to comply does not affect the validity of the Board’s decision.

Professional indemnity insurance

(5) If the Board grants your application, the Board may, by written notice, require you to maintain professional indemnity insurance at a level specified in the notice. The notice may be given to you at the same time as the notice referred to in subsection (4), or subsequently.

602-65 Commencement and duration of registration

Registration under section 602-60 in this Schedule:

(a) commences:
EXPOSURE DRAFT

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(i) if it is a renewal of your registration—on the day after
the day on which your previous registration expired; or
(ii) in any other case—on the day specified in the notice
given under subsection 602-60(4) in this Schedule; and
(b) expires at the end of the period of at least 3 years determined
by the Board, unless it is terminated before that time.

Note: Registration may be terminated under Subdivision 602-C or 604-B in
this Schedule.

602-70 Renewal of registration—special rules

(1) The Board may renew your registration under section 602-60 in
this Schedule if you make an application for renewal at least 30
days, or such shorter period as the Board allows, before the day on
which your registration expires.

(2) Your registration is taken to continue until your application has
been decided (despite subsection 602-60(3) in this Schedule).

(3) You may apply for renewal of registration during a period when
your registration is suspended under section 604-25 in this
Schedule, but your application must comply with subsection (1).

602-75 Obligation to notify of change of circumstances

(1) An entity that is registered under this Part must notify the Board in
writing if any of the following events occurs:
   (a) the entity ceases to meet one or more of the "tax practitioner
registration requirements;
   (b) a "relevant adverse event happens to any of the following:
      (i) the entity;
      (ii) if the entity is a partnership—a partner in the
partnership or a director of a company that is a partner
in the partnership;
      (iii) if the entity is a company—a director of the company;
   (c) if the entity is a partnership—the composition of the
partnership changes;
   (d) if the entity is a company:
      (i) one or more of the directors of the company cease to be
a director;
(ii) one or more individuals become a director of the company.

Note: A breach of this subsection is a breach of section 8C and of subsection 604-10(1) in this Schedule.

(2) The entity must give the notice within 28 days of the event.

**Subdivision 602-C—Termination of registration**

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- 602-70 Termination of registration—individuals
- 602-75 Termination of registration—partnerships
- 602-80 Termination of registration—companies
- 602-88 Period during which you cannot apply for registration
- 602-90 Notification of decision to terminate registration and when termination takes effect

**602-80 Termination of registration—individuals**

(1) The Board may terminate the registration of an individual if one or both of the following occurs:

(a) a *relevant adverse event happens to the individual;
(b) the individual ceases to meet the *tax practitioner registration requirements.

Note: Termination for breach of the Code of Professional Conduct is dealt with in Division 604 in this Schedule.

(2) The Board must terminate the registration of an individual if one or more of the following occurs:

(a) the individual surrenders the individual’s registration by notice in writing to the Board;
(b) unless the individual is a *nominee—the individual permanently ceases to *carry on a *business that provides *tax agent services or *BAS services, as the case requires;
(c) the individual dies;
(d) if the individual is a nominee of a *tax agent or a *BAS service provider:
   (i) the tax agent or BAS service provider notifies the Board that the tax agent or BAS service provider no longer desires the individual to be its nominee; or
(ii) the registration of the tax agent or BAS service provider is terminated.

602-85 Termination of registration—partnerships

(1) The Board may terminate the registration of a partnership if the partnership ceases to meet the *tax practitioner registration requirements.

Note: Termination for breach of the Code of Professional Conduct is dealt with in Division 604 in this Schedule.

(2) The Board must terminate the registration of a partnership if one or both of the following occurs:

(a) the partnership surrenders the partnership’s registration by notice in writing to the Board;

(b) the partnership permanently ceases to *carry on a *business that provides *tax agent services or *BAS services, as the case requires.

(3) If a *relevant adverse event happens to:

(a) a partner of a partnership that is registered under this Part; or

(b) a director of a company that is a partner in such a partnership;

then the Board may, by notice in writing, require the partnership to remove the partner from the partnership, or the company to remove the director, within the period specified in the notice. In determining the period, the Board must have regard to the requirements of any law of the Commonwealth, a State or a Territory in relation to the removal of partners from partnerships.

Note: A breach of this subsection is a breach of section 8C and of subsection 604-10(1) in this Schedule.

602-90 Termination of registration—companies

(1) The Board may terminate the registration of a company if one or more of the following occurs:

(a) a *relevant adverse event happens to the company;

(b) the company ceases to meet the *tax practitioner registration requirements.

Note: Termination for breach of the Code of Professional Conduct is dealt with in Division 604 in this Schedule.
(2) The Board must terminate the registration of a company if one or more of the following occurs:
   (a) the company surrenders the company’s registration by notice in writing to the Board;
   (b) the company permanently ceases to "carry on a "business that provides "tax agent services or "BAS services.

(3) If a "relevant adverse event happens to a director of a company, then the Board may, by notice in writing, require the company to remove the director from the board of directors of the company within the period specified in the notice. In determining the period, the Board must have regard to any requirement of the Corporations Act 2001 in relation to the removal of directors.

Note: A breach of this subsection is a breach of section 8C and of subsection 604-10(1) in this Schedule.

602-95 Period during which you may not apply for registration

If the Board terminates your registration under this Subdivision, the Board must also determine a period of at least 5 years during which you may not make an application for registration unless:
   (a) your registration was surrendered or terminated because you ceased to "carry on a "business as a "tax agent or a "BAS service provider; or
   (b) your registration was terminated because you became an undischarged bankrupt or you went into external administration; or
   (c) in the case of registration as a "nominee—your registration was terminated because of paragraph 602-80(2)(d) in this Schedule.

602-100 Notification of decision to terminate registration and when termination takes effect

(1) If the Board terminates your registration, the Board must, within 30 days of the decision to terminate your registration, notify you in writing of:
   (a) the decision and reasons for the decision; and
   (b) any determination under section 602-95 in this Schedule of a period during which you are not eligible to apply for registration.
However, failure to comply does not affect the validity of the Board’s decision.

(2) The termination takes effect on the day specified in the notice given under subsection (1). The day specified in the notice must be at least 14 days after the date of the notice.

Division 604—Your obligations if you are registered

Table of Subdivisions

Guide to Division 604

604-A The Code of Professional Conduct
604-B Your liability for administrative sanctions
604-C Your liability to civil penalty

Guide to Division 604

604-1 What this Division is about

If you are registered under this Part, the Code of Professional Conduct regulates the way in which you provide tax agent services.

If you undertake specified actions, you may be liable for an administrative sanction issued by the Board or for a civil penalty.

Subdivision 604-A—The Code of Professional Conduct

Table of sections

604-5 Application of the Code of Professional Conduct
604-10 The Code of Professional Conduct

604-5 Application of the Code of Professional Conduct

The "Code of Professional Conduct applies to you if you are:

(a) a "tax agent; or
(b) a "BAS service provider; or
(c) a "nominee of a tax agent or a BAS service provider.
604-10 The Code of Professional Conduct

(1) You must comply with the taxation law.

(2) You must not knowingly impede the proper administration of the taxation law.

(3) You must act honestly and with integrity.

(4) You must act lawfully in the best interests of your client.

(5) You must not allow your own interests to conflict with those of a client other than with the consent of the client.

(6) You must not allow the interests of one of your clients to conflict with those of another of your clients other than with the consent of the relevant clients.

(7) Unless you have a legal duty to do so, you must not disclose any information relating to a client’s affairs to a third party without your client’s permission.

(8) You must ensure that a tax agent service that you provide is provided competently.

(9) You must maintain knowledge and skills relevant to the tax agent services that you provide.

(10) You must take reasonable care to ascertain the true state of the affairs of your clients that are relevant to the taxation law.

(11) You must take all reasonable steps to correctly apply the taxation law to the circumstances of your clients.

(12) You must advise your clients of the client’s rights and obligations under the taxation law that are related to the tax agent services or BAS services that you are providing to the client.

(13) If another person provides tax agent services on your behalf, you must supervise and control the person’s provision of those tax agent services.

(14) If you receive money or other property from or on behalf of a client and you hold the money or other property on trust, you must account to your client for the money or other property.
(15) You must maintain any professional indemnity insurance that the Board requires you to maintain.

(16) You must respond to requests and directions from the Board and the Commissioner in a timely, responsible and reasonable manner.

Subdivision 604-B—Your liability for administrative sanctions

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604-15 Sanctions for failure to comply with the Code of Professional Conduct

If the Board is satisfied, after conducting an investigation under Subdivision 606-A in this Schedule, that you have failed to comply with the Code of Professional Conduct, the Board may impose one or more of the following sanctions on you:

(a) a written caution under this paragraph;
(b) an order under section 604-20 in this Schedule;
(c) suspension of your registration under section 604-25 in this Schedule;
(d) termination of your registration under section 604-30 in this Schedule.

604-20 Orders

(1) The Board may make an order that requires you take one or more actions including, but not limited to, the following:

(a) completing a course of education or training specified in the order;
(b) providing services for which you are registered under this Part only under the supervision of a tax agent or BAS service provider specified in the order;
(c) providing only those services that are specified in the order.

(2) The Board must notify you in writing of the order. The order may specify the following, as appropriate;
(a) the period of time within which you must complete the requirements specified in the order;
(b) the period of time for which the requirements of the order apply to you.

604-25 Suspension

(1) The Board may, by notice in writing, suspend your registration for a period determined by the Board.

(2) You must not provide *tax agent services during the period of suspension.

(3) If, when the Board suspends your registration under subsection (1), your registration is already suspended, suspension is for a further period that the Board determines is appropriate. The further period commences at the end of the period of suspension.

(4) While you are suspended, you are taken not to be a *tax agent, a *BAS service provider or a *nominee, as the case requires, except for the purposes of:
   (a) Subdivision 602-B (Registration) and 602-C (Termination of registration) in this Schedule; and
   (b) this Subdivision.

604-30 Termination

The Board may terminate your registration. If the Board terminates your registration, the Board must notify you in writing.

Subdivision 604-C—Your liability to civil penalty

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604-35 Making false or misleading statements

You are liable for a civil penalty if:
(a) you are a *tax agent, a *BAS service provider, a *nominee of a tax agent or a nominee of a BAS service provider; and
(b) you:
   (i) make a statement to the Commissioner; or
   (ii) prepare a statement that you know, or ought reasonably
        to know, is likely to be made to the Commissioner by
        another person; or
   (iii) permit or direct a person to do a thing mentioned in
        subparagraph (i) or (ii); and
   (c) you know, or ought reasonably to know, that the statement 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.

Civil penalty:
   (a) for an individual—250 penalty units;
   (b) for a body corporate—1,250 penalty units.

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a
penalty unit.

Note 2: Subdivision 606-B in this Schedule determines the procedure for
obtaining a civil penalty order against you.

Note 3: Under section 8K, it is an offence to make a false or misleading
statement.

604-40 Employing or using the services of deregistered entities

(1) You are liable for a civil penalty if:
   (a) you employ or use the services of another entity that you
        know, or ought reasonably to know, is not registered under
        this Part to provide tax agent services on your behalf; and
   (b) you know, or ought reasonably to know, that the entity was
        previously registered under this Part, but the entity’s
        registration was terminated within the period of 3 years
        before you first employed, or first used the services of, the
        entity.

Civil penalty:
   (a) for an individual—250 penalty units;
   (b) for a body corporate—1,250 penalty units.

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a
penalty unit.
Note 2: Subdivision 606-B in this Schedule determines the procedure for obtaining a civil penalty order against you.

(2) Subsection (1) does not apply if the reason for the termination of the entity’s registration was one of the following:
   (a) the entity surrendered the registration;
   (b) the entity ceased to carry on a business as a tax agent or a BAS service provider;
   (c) the entity became an undischarged bankrupt or went into external administration;
   (d) if the entity was registered as a nominee—because of paragraph 602-80(2)(d) in this Schedule;
   (e) a reason prescribed by the regulations.

604-45 Signing of declarations etc.

(1) You are liable for a civil penalty if:
   (a) you are a tax agent; and
   (b) you sign a declaration or other statement in relation to a taxpayer that is required by a taxation law; and
   (c) the document in relation to which the declaration or other statement is being made was prepared by an entity other than:
      (i) you; or
      (ii) your nominee; or
      (iii) an individual working under your supervision and control or under the supervision and control of your nominee; or
      (iv) another tax agent or a nominee of another tax agent.

Civil penalty:
   (a) for an individual—250 penalty units;
   (b) for a body corporate—1,250 penalty units.

Note 1: See section 4AA of the Crimes Act 1914 for the current value of a penalty unit.

Note 2: Subdivision 606-B in this Schedule determines the procedure for obtaining a civil penalty order against you.

(2) You are liable for a civil penalty if:
   (a) you are a BAS service provider; and
(b) you sign a declaration or other statement in relation to a taxpayer that is required by a *BAS provision; and
(c) the document in relation to which the declaration or other statement is being made was prepared by an entity other than:
   (i) you; or
   (ii) your *nominee; or
   (iii) an individual working under your supervision and control or under the supervision and control of your nominee; or
   (iv) another BAS service provider or a nominee of another BAS service provider.

Civil penalty:
(a) for an individual—250 penalty units;
(b) for a body corporate—1,250 penalty units.

Note 1: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Note 2: Subdivision 606-B in this Schedule determines the procedure for obtaining a civil penalty order against you.

(3) Subsection (1) and (2) do not apply if:
(a) the document in relation to which the declaration or other statement is being made, as mentioned in paragraph (1)(c) or (2)(c) (as the case may be), was prepared by an entity other than an entity of a kind mentioned in that paragraph; and
(b) you took reasonable steps to ensure the accuracy of the document.

(4) If you wish to rely on subsection (3) in proceedings for a civil penalty order, you bear an evidential burden in relation to that matter.

**Division 606—Investigation and enforcement**

**Table of Subdivisions**

Guide to Division 606

606-A Investigation

606-B Obtaining an order for a civil penalty

606-C Obtaining an injunction to restrain or require conduct
Guide to Division 606

606-1 What this Division is about

The Board may investigate matters relating to your registration, including your application for registration and your conduct if you are registered under this Part. The Board may oblige you to give them information.

Once the Board has completed an investigation, the Board must make a decision.

The Board or the Commissioner may apply to the Federal Court of Australia if you have breached a provision of this Part imposing a civil penalty.

Subdivision 606-A—Investigation

Table of sections

606-10 Investigation
606-25 Power to require witnesses to attend
606-35 Self-incrimination
606-40 Power to take evidence on oath or affirmation
606-50 Decision after investigation
606-55 Legal professional privilege

606-5 Investigation

(1) The Board may investigate any matter relating to one or more of the following:

(a) an application under section 602-55 in this Schedule for registration;
(b) any conduct that may breach this Part;
(c) such other matters as are prescribed by the regulations.

(2) The Board may establish a committee to undertake an investigation on behalf of the Board, comprised of any one or more individuals as determined by the Board.
(3) The Board must notify you in writing if the Board has decided to
investigate you under subsection (1). The notice must be given
within 2 weeks after the decision.

(4) An investigation is taken to commence on the date of the notice
mentioned in subsection (3).

(5) The Board, or a committee established under subsection (2) to
undertake an investigation on behalf of the Board:
   (a) has a discretion as to its procedure; and
   (b) is not bound by the rules of evidence; and
   (c) must conduct the investigation with as little formality, and
       with as much expedition, as the requirements of this Part and
       a proper consideration of the matters to be considered in the
       investigation permit.

606-10 Power to require witnesses to attend

(1) The Board, or a committee established under subsection 606-5(2)
in this Schedule to undertake an investigation on behalf of the
Board, may, by notice in writing, require a person to appear before
it for one or both of the following purposes:
   (a) to give evidence;
   (b) to produce such documents, articles and other information (if
       any) relating to the matter the subject of the investigation, as
       are referred to in the notice.

(2) If a person is required to attend an investigation, the person is
entitled to be paid the prescribed allowances and expenses (if any):
   (a) if the person is required to attend at the request of an entity
       that is registered or that has applied for registration under this
       Part and that is the subject of the investigation—by that
       entity; or
   (b) in any other case—by the Commonwealth.

Note: Sections 8C and 8D provide for offences relating to failure to attend,
failure to answer questions and other matters.

606-15 Self-incrimination

(1) An individual is not excused from giving information, producing a
document, or answering a question, under section 606-10 in this
Schedule on the ground that to do so might tend to incriminate the
individual or otherwise expose the individual to a penalty or other liability.

(2) However, neither:
   (a) the information or answer given or the document produced;
   (b) any information, document or thing obtained as a direct or indirect consequence of giving the information or answer or producing the document;

is admissible in evidence against the individual in proceedings, other than proceedings for an offence against section 8C or 8D of this Act or section 137.1, 137.2 or 149.1 of the Criminal Code that relates to this Act.

606-20 Power to take evidence on oath or affirmation

(1) The Board, or a committee established under subsection 606-5(2) in this Schedule to undertake an investigation on behalf of the Board, may take evidence on oath or affirmation and, for that purpose, the Chair, or an individual acting on behalf of the Chair, may administer an oath or affirmation.

(2) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the evidence given by the person will be true.

(3) The Board, or a committee established under subsection 606-5(2) in this Schedule to undertake an investigation on behalf of the Board, may, if it thinks that it is appropriate, permit a witness to give evidence by tendering a written statement and verifying it by oath or affirmation.

606-25 Decision after investigation

(1) After an investigation under section 606-5 in this Schedule has been completed, the Board must:
   (a) if the investigation relates to an application for registration under section 602-55 in this Schedule—make a decision in accordance with section 602-60 in this Schedule; or
   (b) in any other case—do one or more of the following:
      (i) make a decision that no further action will be taken in relation to the investigation;
(ii) impose one or more sanctions under Subdivision 604-B in this Schedule;

(iii) apply to the Federal Court of Australia for a civil penalty order under Subdivision 606-B in this Schedule;

(iv) apply to the Federal Court of Australia for an injunction under Subdivision 606-C in this Schedule.

(2) The Board must make a decision under this section:

(a) within 6 months after the day on which the investigation is taken to have commenced under subsection 606-5(4) in this Schedule; or

(b) within the longer period determined by the Board under subsection (3).

(3) If the Board is satisfied that, for reasons beyond the control of the Board, a decision under this section cannot be made within the period mentioned in subsection (2), the Board may determine a longer period within which the Board must make a decision under this section.

(4) The Board must make a decision under subsection (3) not later than 2 weeks before the expiry of the period mentioned in paragraph (2)(a).

(5) The reasons mentioned in subsection (3) include, but are not limited to, the following:

(a) undue delay that has been caused by an entity other than the Board and that affects the conduct of the investigation to which the decision relates;

(b) the complexity of the investigation.

(6) If the Board does not comply with subsection (3), the Board is taken to have decided to take no further action in relation to the matter that was the subject of investigation.

(7) If the Board makes a decision under this section, the Board must:

(a) notify the entity affected by the decision of the decision; and

(b) if the decision is made under subsection (1):

(i) include reasons for the decision in the notice; and

(ii) notify the Commissioner of the decision and the reasons for the decision.
(8) A notice under subsection (7) must be in writing.

606-30 Legal professional privilege

This Part does not affect the law relating to legal professional privilege.

Subdivision 606-B—Obtaining an order for a civil penalty

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606-35 Federal Court may order you to pay pecuniary penalty for contravening a civil penalty provision

Application for order

(1) Within 4 years after you contravene a provision of this Part imposing a civil penalty, the Board or the Commissioner may apply, on behalf of the Commonwealth, to the Federal Court of Australia for an order that you pay the Commonwealth a pecuniary penalty.

Court may order you to pay pecuniary penalty

(2) If the Court is satisfied that you have contravened the provision, the Court may order you to pay to the Commonwealth, for each contravention, the pecuniary penalty that the Court determines is appropriate (but not more than the relevant amount specified for the provision).

Conduct contravening more than one provision of this Part imposing a civil penalty

(3) If conduct constitutes a contravention of 2 or more provisions of this Part imposing a civil penalty, proceedings may be instituted under this Part against you in relation to the contravention of any one or more of those provisions.
(4) However, you are not liable to more than one pecuniary penalty under this section in respect of the same conduct.

606-40 Contravening a provision of this Part imposing a civil penalty is not an offence

A contravention of a provision of this Part imposing a civil penalty is not an offence.

606-45 Recovery of a pecuniary penalty

If the Federal Court of Australia orders you to pay a pecuniary penalty:
(a) the penalty is payable to the Commissioner, who receives the penalty on behalf of the Commonwealth; and
(b) the Commissioner may, on behalf of the Commonwealth, enforce the order as if it were a judgment of the Court.

Subdivision 606-C—Obtaining an injunction to restrain or require conduct

Table of sections

606-90 Injunction to restrain or require certain conduct

606-50 Injunction to restrain or require certain conduct

(1) If, on the application of the Board or the Commissioner, the Federal Court of Australia is satisfied that you have engaged, or are proposing to engage, in conduct that would constitute a contravention of one or more of the following provisions:
(a) Subdivision 602-A in this Schedule (Conduct that is prohibited without registration);
(b) Subdivision 604-C in this Schedule (Your liability to civil penalty);
the Court may grant an injunction:
(c) restraining you from engaging in the conduct; or
(d) if in the Court’s opinion it is desirable to do so, requiring you to do something.
(2) Before deciding the application, the Court may grant an interim injunction:
(a) restraining you from engaging in conduct; or
(b) requiring you to do something.

Division 608—The Tax Practitioners Board

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608-A Establishment and functions of the Tax Practitioners Board
608-B Reporting and disclosure obligations of the Tax Practitioners Board

Guide to Division 608

608-1 What this Division is about

The Board is established and comprises at least 7 members. The Board has functions and powers in relation to the operation of this Part and also has certain obligations in relation to reporting, publication of information and disclosure.

Subdivision 608-A—Establishment and functions of the Tax Practitioners Board

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608-5 Functions
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608-30 Remuneration
608-35 Immunity from legal action
608-40 Termination of appointment
608-50 Meetings
608-55 Decisions without meetings
608-5 Establishement

The Tax Practitioners Board (the Board) is established.

608-10 Functions

The functions of the Board are:

(a) to administer the system for the registration of *tax agents,
BAS service providers and *nominees; and
(b) to investigate matters relating to registration and to
investigate and impose sanctions for non-compliance with the
*Code of Professional Conduct; and
(c) to issue, by legislative instrument, guidelines to assist in
achieving the functions mentioned in paragraphs (a) and (b); and
(d) such other functions as are conferred on the Board by this
Act, the regulations or any other law of the Commonwealth; and
(e) to do anything incidental or conducive to the performance of
its functions.

608-15 Powers

(1) The Board has power to do all things necessary or convenient to be
done for or in connection with the performance of its functions.

(2) The Board may establish committees, consisting of such
individuals as the Board thinks fit, to assist the Board in the
performance of its functions.

608-20 Composition of the Board

(1) The Board consists of:
(a) the Chair; and
(b) 6 or more other members.

(2) The Minister is responsible for appointing each member of the
Board.

(3) A member of the Board holds office, on a part-time basis, for a
period determined by the Minister and is eligible for
reappointment.
(4) The performance of the functions, or the exercise of the powers, of the Board is not affected only because of a vacancy or vacancies in the membership of the Board.

608-25 Remuneration

(1) The members of the Board, and members of a committee established by the Board, are to be paid such remuneration as is determined by the Remuneration Tribunal.

(2) The members of the Board, and members of a committee established by the Board, are to be paid such allowances as are prescribed.

(3) This section has effect subject to the Remuneration Tribunal Act 1973.

608-30 Immunity from legal action

No action or suit may be brought against a person who is, or has been, a member of the Board, or a member of a committee established by the Board, in relation to the exercise of the person’s functions or the performance of the person’s duties.

608-35 Termination of appointment

(1) A member may resign by giving to the Minister a signed notice of resignation. The notice must specify a date from which it is proposed that the resignation will take effect.

(2) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

(3) The Minister may terminate the appointment of a member if:

(a) the member:

(i) becomes bankrupt; or

(ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with his or her creditors; or

(iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
(b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
(c) the member engages, except with the Minister’s approval, in paid employment outside the duties of his or her office.

608-40 Meetings

(1) At a meeting of the Board, a majority of the members of the Board constitutes a quorum.

(2) A question arising at a meeting is decided by a majority of the votes of the members of the Board present and voting.

(3) The Chair presides at all meetings at which he or she is present. If the Chair is not present, the members present must appoint one of themselves to preside.

(4) The individual presiding at a meeting has a deliberative vote and, if necessary, a casting vote.

(5) The Board may regulate proceedings at its meetings as it considers appropriate.

Note: Section 33B of the Acts Interpretation Act 1901 provides for participation in meetings by telephone etc.

608-45 Decisions without meetings

(1) A decision is taken to have been made at a meeting of the Board if:

(a) without meeting, a majority of the Board indicate agreement with the proposed decision in accordance with the method determined by the Board under subsection (2); and

(b) all the members of the Board were informed of the proposed decision, or reasonable efforts were made to inform all the members of the proposed decision.

(2) Subsection (1) applies only if the Board:

(a) has determined that it applies; and

(b) has determined the method by which members of the Board are to indicate agreement with proposed decisions.

(3) The Board must keep a record of decisions made in accordance with this section.
Subdivision 608-B—Reporting and disclosure obligations of the Tax Practitioners Board

Table of sections

608-50 Report to Parliament

(1) As soon as practicable after 30 June in each year, the Chair of the Board must cause a report to be prepared and given to the Minister.

(2) The report must relate to the operation of the Board for the year.

(3) The Minister must cause a copy of a report given to him or her under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

608-55 Publication of information

The Board:

(a) must cause a register of every entity that is registered under this Part to be maintained on the website maintained by the Board on the Internet. The register must include:

(i) the name of the entity; and

(ii) the contact details of the business of the entity; and

(iii) any relevant professional affiliation of the entity; and

(iv) any sanction (other than a caution) that has been imposed by the Board on the entity; and

(b) may, if the Board thinks that it is appropriate, cause a notice to be published on the website maintained by the Board on the Internet if:

(i) the Board makes a decision under Subdivision 602-C or 604-B in this Schedule to terminate the registration of an entity; or

(ii) the Board makes a decision under section 604-25 in this Schedule to suspend the registration of an entity.
Disclosure to Australian Federal Police etc. or the Commissioner

(1) Despite any secrecy provision, the Board may disclose information acquired by the Board under the provisions of this Part to the following:

(a) if the Board is satisfied that the information is relevant to the enforcement of the criminal law to:
   (i) the Australian Federal Police; or
   (ii) the police force or police service of a State or Territory; or
   (iii) the Australian Crime Commission; or
   (iv) the Australian Securities and Investments Commission; or
   (v) the Commonwealth Director of Public Prosecutions;

(b) if the Board is satisfied that the information is relevant to establishing whether a person is in breach of a provision of the taxation law (other than a provision of this Part)—the Commissioner.

(2) If the Board discloses information as mentioned in paragraph (1)(b), the Commissioner, or a person in the course of performing duties in the Australian Taxation Office to whom the Commissioner has disclosed the information, must not make a record of, disclose or otherwise use the information for a purpose that is neither a purpose for which it was acquired nor a purpose in respect of which the person to whom the information relates has given written consent.

Guide to Division 610

What this Division is about

This Division sets out some general provisions that apply to this Part. These include provisions about administrative review and the treatment of partnerships.
610-5 Administrative review

An application may be made to the Administrative Appeals Tribunal for review of any of the following decisions of the Board:

(a) a decision under section 602-60 in this Schedule to reject an application for registration (including renewal of registration) or to require professional indemnity insurance;

(b) a decision under subsection 602-70(1) in this Schedule not to determine a shorter period for making a renewal application;

(c) a decision under Subdivision 602-C in this Schedule to terminate registration;

(d) a decision under section 602-95 in this Schedule to determine a period during which an application for registration may not be made;

(e) a decision under paragraph 604-15(a) in this Schedule to issue a caution;

(f) a decision under section 604-20 in this Schedule to make an order or to specify a time period in respect of an order;

(g) a decision under section 604-25 in this Schedule to suspend registration (including a decision as to the length of the suspension);

(h) a decision under section 604-30 in this Schedule to terminate registration;

(i) a decision under subsection 606-25(3) in this Schedule to extend the period of time within which an investigation is to be completed.

610-10 Civil Penalties—treatment of partnerships

If a partnership is liable to a civil penalty because of particular conduct, each partner in the partnership is taken to be so liable unless the partner proves, on the balance of probabilities, that the partner:

(a) did not engage in the conduct; and

(b) did not aid, abet, counsel or procure the conduct; and
(c) was not in any way knowingly concerned in, or party to, the
conduct (whether directly or indirectly or whether by any act
or omission of the partner).

Note: Section 444-30 in this Schedule also contains provisions about the
treatment of partnerships.

610-15 Continuity of partnerships

For the purposes of this Part, a change in the composition of a
partnership does not affect the continuity of the partnership.

19 Application provision

The amendments made by item 16 apply in relation to statements
required to be given on or after the commencement of the item.
1 Definitions

(1) In this Schedule:

amended administration Act means the 
\textit{Taxation Administration Act 1953} as amended by this Act.

\textbf{National Board} means the Tax Practitioners Board established under \nsection 608-5 in Schedule 1 to the amended administration Act.

\textbf{State Board} means a Tax Agents’ Board that is established in a State
under section 251C of the \textit{Income Tax Assessment Act 1936}.

\textbf{transition time} means the commencement of Schedule 1 to this Act.

(2) Subject to subitem (1), an expression used in this Schedule that is also
used in the \textit{Income Tax Assessment Act 1997} has the same meaning in
this Schedule as it has in that Act.

2 Registration of a tax agent continues in force

(1) This item applies to:

(a) an entity that was, immediately before the transition time, a
registered tax agent within the meaning of Part VIIA of the
\textit{Income Tax Assessment Act 1936}; and

(b) an entity that was, immediately before the transition time,
taken not to be a registered tax agent because of subsection
251K(6) (which relates to suspension).

(2) Part 5-90 in Schedule 1 to the amended administration Act has effect,
from the transition time, in relation to the entity as if the entity were
registered as a tax agent.

(3) The registration of an entity to which paragraph (1)(b) applies is taken
to have been suspended under section 604-25 in Part 5-90 in Schedule 1
to the amended administration Act for the period:

(a) that begins at the transition time; and

(b) that ends at the time at which the suspension would have
ended but for the repeal of section 251K of the \textit{Income Tax
Assessment Act 1936} by Schedule 1 to this Act.
3 Special rule relating to provision of BAS services by certain individuals

(1) This item applies to an individual if:

(a) immediately before the transition time, the individual was providing exempt BAS services; and
(b) during the period of 2 years beginning at the transition time, the individual provides a BAS service; and
(c) at the time of provision of the BAS service, the individual is a person referred to in subsection 251L(6) of the Income Tax Assessment Act 1936 as in force immediately before the transition time.

(2) Part 5-90 in Schedule 1 to the amended administration Act has effect, in relation to the provision of the BAS service by the individual as if the individual were registered as a BAS service provider.

(3) If:

(a) the individual applies for registration as a BAS service provider under section 602-55 in Part 5-90 in Schedule 1 to the amended administration Act before the end of the period of 3 years beginning at the transition time; and
(b) the individual would be eligible for registration but for the operation of paragraph 602-30(1)(b) in that Part (which requires the National Board to be satisfied that the individual meets the prescribed BAS service provider requirements within the meaning of that Part); and
(c) the National Board is satisfied that the individual had been providing BAS services to a competent standard for a reasonable period before making the application;

then, despite paragraph 602-30(1)(b) in that Part, the individual is eligible for registration.

(4) In this item:

exempt BAS service means a BAS service, within the meaning of subsection 251L(7) of the Income Tax Assessment Act 1936, to which subsection 251L(1) of that Act did not apply because of the application of subsection 251L(6) of that Act.

4 Registration of a nominee continues in force
(1) This item applies to an individual that was, immediately before the transition time, a nominee of a registered tax agent within the meaning of Part VIIA of the *Income Tax Assessment Act 1936*.

(2) Part 5-90 in Schedule 1 to the amended administration Act has effect, after the transition time, in relation to the individual, as if the individual were registered as a nominee of the tax agent.