



INFORMATION SHEET

IS-L02009PW

Termination of registration

This document is intended as an overview of the termination of registration provisions set out in the *Tax Agent Services Act 2009*. This information sheet is intended to provide assistance. It is not a formal Board Guideline. This information sheet may be changed from time to time.

WHAT ARE THE GROUNDS FOR TERMINATION?

The grounds for termination of registration depend on whether you are registered as an individual, partnership or company tax or BAS agent.

Individuals

If you are an individual registered tax agent or BAS agent, the Board may terminate your registration if:

- (i) any of the following **events affecting registration** occur:
 - you are convicted of a *serious taxation offence*;
 - you are convicted of an *offence involving fraud or dishonesty*;
 - you are penalised for being a *promoter of a tax exploitation scheme*;
 - you are penalised for implementing a *scheme* that has been promoted on the basis of conformity with a *product ruling* in a way that is materially different from that described in the product ruling;
 - you become an *undischarged bankrupt*;
 - you are *sentenced to a term of imprisonment*.
- (ii) you cease to meet the **tax practitioner registration requirements**
- (iii) you **breach a condition of your registration** (if the Board has imposed a condition on your registration), or
- (iv) you **breach the Code of Professional Conduct**.



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The Board **must** terminate your registration if you surrender your registration by written notice to the Board, or if you die.

Appendix A to this information sheet provides more explanation.

Partnerships

The Board **may** terminate the registration of a partnership if:

- (i) the partnership ceases to meet the **tax practitioner registration requirements**
- (ii) the partnership **breaches a condition of registration** (if the Board has imposed a condition on registration), or
- (iii) the partnership **breaches the Code of Professional Conduct**.

The Board **must** terminate the registration of a partnership if it surrenders its registration by written notice to the Board.

NOTE: The Board **may**, by written notice, require a partnership to remove a partner from the partnership if any of the following **events affecting registration** occur in respect of that partner:

- the partner is convicted of a *serious taxation offence*
- the partner is convicted of an *offence involving fraud or dishonesty*
- the partner is penalised for being a *promoter of a tax exploitation scheme*
- the partner is penalised for implementing a *scheme* that has been promoted on the basis of conformity with a *product ruling* in a way that is materially different from that described in the product ruling
- the partner becomes an *undischarged bankrupt* or goes into *external administration*
- the partner is *sentenced to a term of imprisonment*.

If any one of the above events occurs in relation to a director of a company that is a partner in the partnership, the Board may, by written notice, require:

- the removal of the partner from the partnership, or
- the company to remove the director.

* A failure to comply with a written notice is a breach of the Code of Professional Conduct.



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Companies

The Board may terminate the registration of a company if:

- (i) any of the following **events affecting registration** occur:
 - the company is convicted of a *serious taxation offence*;
 - the company is convicted of an offence involving fraud or dishonesty;
 - the company is penalised for being a *promoter of a tax exploitation scheme*;
 - the company is penalised for implementing a *scheme* that has been promoted on the basis of conformity with a *product ruling* in a way that is materially different from that described in the product ruling;
 - the company goes into external administration or liquidation.
- (ii) the company ceases to meet the **tax practitioner registration requirements**
- (iii) the company **breaches a condition of registration** (if the Board has imposed a condition on registration)
- (iv) the company **breaches the Code of Professional Conduct**.

The Board must terminate the registration of a company if it surrenders its registration by written notice to the Board, or if it ceases to exist.

NOTE: The Board may, by written notice, require a company to remove a director from the board of directors of the company if any of the following **events affecting registration** occur in respect of that director:

- the director is convicted of a *serious taxation offence*;
- the director is convicted of an *offence* involving *fraud or dishonesty*;
- the director is penalised for being a *promoter of a tax exploitation scheme*;
- the director is penalised for implementing a *scheme* that has been promoted on the basis of conformity with a *product ruling* in a way that is materially different from that described in the product ruling;
- the director becomes an undischarged bankrupt or goes into external administration;
- the director is sentenced to a term of imprisonment.

* A failure to comply with a written notice is a breach of the Code of Professional Conduct.



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WILL YOU RECEIVE NOTICE OF TERMINATION?

If the Board decides to terminate your registration, you will receive a written termination notice within **30 days** of the Board's decision. The termination notice will include:

- the Board's decision to terminate your registration;
- the reasons for the decision;
- details of any period during which you are prohibited from applying for registration; and
- your rights of review.

However, failure to notify does not affect the validity of the Board's decision.

WHAT ARE THE EFFECTS OF TERMINATION?

Termination takes effect on the day specified in the termination notice. From this date, you will no longer be registered. The day specified in the notice must be at least 28 days after the date of the notice.

If the termination notice specifies a period during which you are prohibited from applying for registration, you cannot make a fresh application for registration within that period. The maximum period of prohibition from applying for registration is 5 years. This does not apply if registration was terminated because you surrendered your registration, you became an undischarged bankrupt; or you went into external administration.

If you are unregistered, you must not:

- charge a fee or receive a reward for providing tax agent services or BAS services;
- advertise that you will provide tax agent services or BAS services; or
- represent that you are a registered tax agent or registered BAS agent.

Civil penalties of up to \$27,500 (250 penalty units) for an individual, or \$137,500 (1,250 penalty units) for a body corporate, may apply under the civil penalty provisions of the *Tax Agent Services Act 2009*.

Entities employing you or otherwise using your services to provide a tax agent service within 12 months of termination of your registration may also be subject to a civil penalty.

The Board will notify the Commissioner of Taxation of its decision to terminate your registration and the reasons for its decision.



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Notice of the Board's decision to terminate registration will also be published in the *Gazette* and recorded on the register of registered tax agents and BAS agents which is available on the Board's website. The record will remain on the register for 12 months from the day on which your registration was terminated.

WHAT ARE YOUR RIGHTS OF REVIEW?

Decisions by the Board to:

- terminate your registration; or
- determine a period during which you are prohibited from applying for registration

are reviewable decisions about which you may apply to the Administrative Appeals Tribunal for a review.

For further information about your rights of review, please refer to the *Reviewable Decisions information sheet* available at www.tpb.gov.au/TPB/tax_agents_/Regulatory_information

NEED MORE INFORMATION?

Further information will be released as it becomes available on the Board's website at www.tpb.gov.au.



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APPENDIX A – EXPLANATION OF GROUNDS FOR TERMINATION

This appendix provides a more detailed explanation of the grounds for termination outlined in the information sheet.

Individuals

(i) Event affecting registration occurs – individual

You must give notice to the Board **within 30 days** if an event affecting your registration occurs. See the *Events affecting registration information sheet* for more information available at www.tpb.gov.au/TPB/tax_agents_/Regulatory_information

(ii) Cease to meet tax practitioner registration requirements – individual

'*Tax practitioner registration requirements*' are the matters about which the Board must be satisfied before it grants registration to an applicant under the TASA.

The registration requirements for an individual are as follows:

- (i) you must be at least 18 years of age and a fit and proper person
- (ii) you must meet the requirements prescribed by the *Tax Agent Services Regulations 2009* including, but not limited to, requirements relating to qualifications and experience.

See the *Individual tax agent registration information sheet* available at www.tpb.gov.au/TPB/tax_agents_/Registration_information for more information about registration requirements.

You must give notice to the Board **within 30 days** if you cease to meet one of the tax practitioner registration requirements.

(iii) Breach a condition of your registration – individual

The Board may impose conditions on registration, which limit the scope of the services that a registered agent may provide. If you breach a condition imposed on your registration, the Board may terminate your registration.

See the *Conditions of registration information sheet* available at www.tpb.gov.au/TPB/tax_agents_/Regulatory_information for more information.



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(iv) Breach of the Code of Professional Conduct – individual

The Code of Professional Conduct applies to all registered tax agents and BAS agents.

If the Board is satisfied, after conducting an investigation, that you have failed to comply with the Code, the Board may give you a written caution, give you an order under the TASA to do or not do certain things, or suspend or terminate your registration.

See the *Code of Professional Conduct information sheet* available at www.tpb.gov.au/TPB/tax_agents_/Regulatory_information for more information.

Partnerships

(i) Cease to meet tax practitioner registration requirements – partnerships

“*Tax practitioner registration requirements*” are the matters about which the Board must be satisfied before the Board grants registration to an applicant.

The registration requirements for a partnership are as follows:

If an individual is a partner:

- (i) the individual must be at least 18 years of age and a fit and proper person.

If a company is a partner:

- (i) each director must be a fit and proper person
- (ii) the company must not be under external administration
- (iii) the company must not have been convicted of a serious taxation offence or an offence involving fraud or dishonesty in the previous five years.

The partnership must also have a sufficient number of individuals, being registered tax agents or BAS agents, depending upon the registration type, to provide tax agent services or BAS services to a competent standard and to carry out supervisory arrangements.

The registration requirements for individuals are listed above under *Individuals*.

See the *Partnership tax agent registration information sheet* available at www.tpb.gov.au/TPB/tax_agents_/Registration_information for more information.

The partnership must give notice to the Board **within 30 days** if the partnership ceases to meet one of the tax practitioner registration requirements.



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(ii) Breach a condition of registration – partnerships

The Board may impose conditions on registration which limit the scope of the services that a registered agent may provide. If a partnership breaches a condition imposed on its registration, the Board may terminate the registration.

See the *Conditions of registration information sheet* available at www.tpb.gov.au/TPB/tax_agents/Regulatory_information for more information.

(iii) Breach of the Code of Professional Conduct – partnerships

The Code of Professional Conduct applies to all registered tax agents and BAS agents.

If the Board is satisfied, after conducting an investigation, that a partnership has failed to comply with the Code of Professional Conduct, the Board may impose the same sanctions as for individuals, including terminating the partnerships registration.

See the *Code of Professional Conduct information sheet* available at www.tpb.gov.au/TPB/tax_agents/Regulatory_information for more information.

Companies

(i) Event affecting registration occurs – companies

A company must give notice to the Board **within 30 days** if an event affecting registration occurs. See the *Events that may affect your continued registration information sheet* available at www.tpb.gov.au/TPB/tax_agents/Regulatory_information for more information.

(ii) Cease to meet tax practitioner registration requirements – companies

'*Tax practitioner registration requirements*' are matters about which the Board must be satisfied before it grants registration to an applicant.

The registration requirements for a company are as follows:

- (i) each director of the company is a fit and proper person
- (ii) the company is not under external administration
- (iii) the company has not been convicted of a serious taxation offence or an offence involving fraud or dishonesty in the previous five years.

The company must also have a sufficient number of individuals, being registered tax agents or BAS agents, depending upon the registration type, to provide tax agent



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services or BAS services to a competent standard and to carry out supervisory arrangements.

The registration requirements for an individual are listed above under 'Individuals'.

See the *Company tax agent registration information sheet* available at www.tpb.gov.au/TPB/tax_agents_/Registration_information for more information.

The company must give notice to the Board **within 30 days** if the company ceases to meet one of the tax practitioner registration requirements.

(iii) Breach a condition of your registration – companies

The Board may impose conditions on registration which limit the scope of the services that a registered agent may provide. If a company breaches a condition imposed on its registration, the Board may terminate the registration.

See the *Conditions of registration information sheet* available at www.tpb.gov.au/TPB/tax_agents_/Registration_information for more information.

(iv) Breach of the Code of Professional Conduct – companies

The Code of Professional Conduct applies to all registered tax agents and BAS agents.

If the Board is satisfied, after conducting an investigation, that a company has failed to comply with the Code of Professional Conduct, the Board may impose the same sanctions as for individuals, including terminating the registration.

See the *Code of Professional Conduct information sheet* available at www.tpb.gov.au/TPB/tax_agents_/Regulatory_information for more information.