



INFORMATION SHEET

IS-L00409PW

Applications for successor tax agent registration

This document is intended as an overview of the process for applications for successor tax agent registration 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.

NOTE: In this fact sheet references to:

- '**New law**' means the *Tax Agent Services Act 2009*, the *Tax Agent Services Regulations 2009* and the *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009*; and
- '**Old law**' means Part VIIA of the *Income Tax Assessment Act 1936* and Part 9 of the *Income Tax Regulations 1936*.

WHAT IS THE NEW LAW?

- *Tax Agent Services Act 2009* (TASA)
 - The TASA is the main Act and establishes the Tax Practitioners Board (Board) and provides for the registration of tax agents and BAS agents.
- *Tax Agent Services Regulations 2009* (TASR)
 - Contain, amongst other things, the qualifications and relevant experience requirements for registration.
- *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009* (Transitional Act)
 - Deals with the consequential and transitional matters arising from the enactment of the TASA.



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CHANGES IN THE CONSTITUTION OF A PARTNERSHIP

Under the old law, where there was a change in the constitution of a partnership, the registration of that partnership was taken to be terminated at the time of the change. However, a former partner of the original partnership or a new partnership could apply to a State Tax Agents' Board for registration as a successor tax agent provided certain conditions were met. Generally, the new application was required to be made within 30 days of termination of the registration of the original partnership.

WHAT HAPPENS TO SUCCESSOR TAX AGENT APPLICATIONS UNDER THE NEW LAW?

Under the new law, a change in the constitution of a partnership does not affect the continuity of the partnership. Hence, there is no requirement for successor tax agent applications.

However, if the registration of your partnership has been terminated under the old law because there was a change in the constitution of your partnership, and before commencement of the new law on 1 March 2010, you either:

- (i) applied to a State Tax Agents' Board for registration as a successor tax agent in accordance with the old law and your application was still pending (that is, your application was not decided) as at commencement of the new law; or
- (ii) had not applied for registration as a successor tax agent under the old law, but the 30 day period within which an application had to be made under the old law had not expired;

this information sheet will provide a brief explanation about how your successor tax agent application will be handled under the new law.

(i) Pending successor tax agent registration application

If you have made an application for registration as a successor tax agent in accordance with the old law and the State Tax Agents' Board had not decided your application before commencement of the new law on 1 March 2010, then the original partnership's registration will be taken not to have been terminated at the time of the change in the constitution of the original partnership.



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In this case, the original partnership and its nominee/s (if any) will be taken to be registered tax agents from commencement of the new law.

The original partnership and its nominees (if any) will be required to adhere to the new law, including the requirements of the Code of Professional Conduct.

For further information please refer to the Code of Professional Conduct information sheet, available at www.tpb.gov.au/TPB/tax_agents/Regulatory_information

Note: The new law removes the concept of ‘nominee’ registrations. If you were, immediately before commencement of the new law, registered as a nominee of a tax agent under the old law, you will be taken to be a registered tax agent under the new law.

What if your first successor tax agent application was rejected by the State Tax Agents’ Board before commencement of the new law?

If the registration of your partnership has been terminated under the old law because there was a change in the constitution of your partnership, and the following conditions are satisfied:

- (a) before commencement of the new law, you applied to a State Tax Agents’ Board for registration as a successor tax agent within 30 days of termination of the registration of your partnership, but in the opinion of that board, the application was not an application made in accordance with the old law; and
- (b) at least 21 days after the termination of the registration of your partnership, the State Tax Agents’ Board notified you that the application you supplied was not an application made in accordance with the old law; and
- (c) at commencement of the new law, the 7 day period within which to re-submit your application under the old law (that is, seven days within service of the notice mentioned in paragraph (b) above) had not expired; and
- (d) you had not resubmitted your application within the 7 day period mentioned in paragraph (c) above;

then you may resubmit your application in accordance with the old law within 7 days of commencement of the new law.



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If the Board is of the opinion that you have resubmitted your application in accordance with the old law, it will register you as a registered tax agent under the new law and notify you of its decision accordingly.

If the Board decides to grant your application, it may, in accordance with the new law, require you to maintain professional indemnity insurance.

Further, you will be required to adhere to the new law, including the requirements of the Code of Professional Conduct.

For further information please refer to the Code of Professional Conduct information sheet, available at www.tpb.gov.au/TPB/tax_agents/Regulatory_information

(ii) Successor tax agent registration – application not yet made

If the registration of your partnership has been terminated under the old law because there was a change in the constitution of your partnership, and at commencement of the new law:

- you had not applied for registration as a successor tax agent; and
- the 30 day period within which an application had to be made in accordance with the old law had not expired;

then you may make an application to the Board for registration as an individual or partnership in accordance with the old law within the 30 day period.

If you make such an application, the original partnership's registration is taken not to have been terminated at the time of the change in the constitution of the original partnership.

Therefore, the original partnership and its nominee/s (if any) will be taken to be registered tax agents from commencement of the new law.

The original partnership and its nominees (if any) will be required to adhere to the new law, including the requirements of the Code of Professional Conduct. Further information about the Code of Professional Conduct is available in the *Code of Professional Conduct information sheet* available at www.tpb.gov.au/TPB/tax_agents/Regulatory_information



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TAX PRACTITIONERS BOARD

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WHAT IF YOU FAIL TO MAKE A SUCCESSOR TAX AGENT REGISTRATION APPLICATION WITHIN THE REQUIRED TIME?

If the registration of your partnership has been terminated under the old law because there was a change in the constitution of your partnership, and you fail to make a successor tax agent registration application within the required time, you may make a fresh application for registration under the new law.

NEED MORE INFORMATION?

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