



# INFORMATION SHEET

IS-L00109PW

## Continuation of existing tax agent and nominee registration under the new Tax Agent Services regulatory regime

This document is intended as an overview of arrangements for the continuation of existing tax agent and nominee registration under the new Tax Agent Services regulatory regime. 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 information 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*.
- **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. It establishes the Tax Practitioners Board (Board) and provides for the registration of tax agents and BAS agents.
- *Tax Agent Services Regulations 2009* (TASR)
  - Contain, among other things, the qualifications and relevant experience requirements for registration.
- *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009* (Transitional Act)
  - Deals with consequential and transitional matters arising from the enactment of the TASA.



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Under the old law, tax agents and nominees were registered by their respective State Tax Agents' Board under Part VIIA of the *Income Tax Assessment Act 1936*. The Board replaces the old State Tax Agents' Boards on 1 March 2010.

There are transitional arrangements to allow tax agents and nominees registered under the old law to transition smoothly into the new regulatory regime.

## WHAT WILL HAPPEN TO YOUR EXISTING REGISTRATION UNDER THE NEW LAW?

If you are registered as:

- (i) a tax agent; or
- (ii) a nominee of a tax agent

by a State Tax Agents' Board, this information sheet explains what will happen to your existing tax agent or nominee registration under the new law.

### (i) Existing tax agent registration

If you were, immediately before commencement of new law, registered as a tax agent under the old law, your registration will continue under the new law from the day the new law came into effect on 1 March 2010, provided your registration did not cease before the new law came into effect.

You must adhere to the new law, including the Code of Professional Conduct. See *Code of Professional Conduct information sheet* available at [www.tpb.gov.au/TPB/tax\\_agents\\_/Regulatory\\_information/](http://www.tpb.gov.au/TPB/tax_agents_/Regulatory_information/) for more information.

### (ii) Existing nominee registration

If you were, immediately before commencement of new law, registered as a nominee of a tax agent, you will be taken to be a registered tax agent under the new law from the day the new law came into effect on 1 March 2010, provided your registration did not cease before the new law came into effect. This is because the new law removes the concept of 'nominee' registrations.

You must adhere to the new law, including the Code of Professional Conduct. See *Code of Professional Conduct information sheet* available at [www.tpb.gov.au/TPB/tax\\_agents\\_/Regulatory\\_information/](http://www.tpb.gov.au/TPB/tax_agents_/Regulatory_information/) for more information.



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**Note:** If you are registered as both a tax agent and a nominee of a tax agent, your registration will continue as described in (i) above.

## WHAT HAPPENS IF YOUR EXISTING REGISTRATION IS SUSPENDED?

If your registration was suspended before the new law came into effect, and the period of your suspension did not end when the new law came into effect, you are taken to be suspended under the new law. Your suspension will end on the same day it would have ended under the old law.

The new law does not change the consequences of your suspension. You are not registered for the period of your suspension, so you are not able to provide tax agent services during that suspension period. If you provide tax agent services while suspended, you may contravene a civil penalty provision under the new law.

The day after your period of suspension ends, you will be taken to be registered as a tax agent under the new law and must adhere to the new law, including the Code of Professional Conduct.

## WHAT HAPPENS IF YOU HAVE RECEIVED A SHOW CAUSE NOTICE REGARDING YOUR EXISTING REGISTRATION?

If you were registered as a tax agent or nominee under the old law, and had been issued with a show cause notice by your State Tax Agents' Board, the new Board will decide within 60 days of the start of the new law on 1 March 2010 whether or not it will continue investigating you.

You will be notified whether or not the new Board decides to continue the investigation. For more information about investigations under the new law see the *Investigations information sheet* available at [www.tpb.gov.au/TPB/tax\\_agents/Regulatory\\_information/](http://www.tpb.gov.au/TPB/tax_agents/Regulatory_information/)

If the Board does not make a decision within 60 days of the new law commencing, it can be taken that the Board has decided not to investigate further.



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## WHEN WILL YOUR EXISTING REGISTRATION EXPIRE UNDER THE NEW LAW?

If you were registered as a tax agent under the old law, your registration will expire on the same date that your registration would have expired under the old law.

If you were registered as a nominee of a tax agent, your registration will expire on the date that the tax agent registration for which you are nominee would have expired under the old law. If you are a registered nominee of more than one tax agent, your registration under the new law will expire on the date that the last of those tax agent registrations would have expired under the old law.

However, your registration may also expire in the following circumstances:

- (i) if the Board **cancels your registration under the old law**; or
- (ii) if the Board **terminates your registration under the new law**.

These grounds are explained in more detail below.

### (i) Cancellation of registration under the old law

If, when the new law came into effect, your registration was being investigated by a State Tax Agents' Board (that is, if you had been issued with a show cause notice), your registration may still be cancelled by the Board under the old law. This will depend on whether the Board decides to continue the investigation and what findings the Board makes.

### (ii) Termination of registration under the new law

There are a number of grounds for termination of registration under the new law, depending on whether you are registered as an individual, partnership or company tax agent. For more information see the *Termination of Registration information sheet* available at [www.tpb.gov.au/TPB/tax\\_agents/Regulatory\\_information/](http://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](http://www.tpb.gov.au).