



# INFORMATION SHEET

IS-L01109PW

## Registration as a company tax agent

This document is intended as an overview of the process for registration as a company tax agent 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.

### Who must register?

A company must be registered as a tax agent to provide a “*tax agent service*” for a fee or other reward.

A “*tax agent service*” is any service that relates to:

- ascertaining or advising about the liabilities, obligations or entitlements of an entity under a ‘taxation law’; or
- representing an entity in their dealings with the Commissioner of Taxation; and

that is provided in circumstances where it is reasonable to expect that the entity will rely on it to satisfy liabilities or obligations under a taxation law or to claim entitlements under a taxation law.

“Taxation law” includes any Act of which the Commissioner of Taxation has general administration, or any regulations made under such an Act. It also includes the *Tax Agent Services Act 2009* (TASA) and any regulations made under that Act.

A list of indicative tax agent services can be found in *Appendix A attached* to this information sheet.

**NOTE:** ‘Tax agent services’ include ‘BAS services’.

### What if a company does not register?

A company may contravene a civil penalty provision if it is unregistered and provides tax agent services for a fee or other reward.

A company may also contravene a civil penalty provision if it is unregistered and it:

- advertises that it will provide a tax agent service; and/or



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- represents itself as a registered tax agent.

Civil penalties of up to \$137,500 (1,250 penalty units) may apply under the civil penalty provisions of the TASA.

## What are the eligibility requirements for registration?

A company is eligible for registration as a registered tax agent if it meets all of the following requirements:

- each director of the company is a **fit and proper person**;
- the company is **not under external administration**;
- the company has **not been convicted of a serious taxation offence** or an offence involving fraud or dishonesty during the previous 5 years; and
- the company has a **sufficient number of registered individuals**, being registered tax agents to provide tax agent services to a **competent standard**, and to **carry out supervisory arrangements**.

### (i) Fit and proper person

In deciding whether an individual is a fit and proper person, the Board must have regard to the following:

- whether the individual is of good fame, integrity and character; and
- whether any of the following events have occurred during the previous 5 years:
  - the individual has had the status of an undischarged bankrupt;
  - the individual has served a term of imprisonment in whole or in part;
  - the individual has been convicted of a serious taxation offence;
  - the individual has been convicted of an offence involving fraud or dishonesty;
  - the individual has been penalised for being a promoter of a tax exploitation scheme;
  - the individual has been 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; and/or
  - the individual has been sentenced to a term of imprisonment.

For further information regarding these events, please refer to the *Events that may affect your continued registration information sheet* available at [http://www.tpb.gov.au/TPB/tax\\_agents/Regulatory\\_information](http://www.tpb.gov.au/TPB/tax_agents/Regulatory_information)

### (ii) Not under external administration

Generally, a company will go into external administration when its directors are required to relinquish direction of its affairs to a receiver, administrator, provisional liquidator or liquidator.

A company will go into external administration for the purposes of the TASA if it goes into external administration as defined in the *Corporations Act 2001*.

### (iii) Not convicted of a serious taxation offence or offence involving fraud or dishonesty



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To satisfy this requirement, a company must not have been convicted of a serious taxation offence or an offence involving fraud or dishonesty during the previous 5 years.

A “*serious taxation offence*” is:

- (a) an offence against any one of the following specified offences outlined in the *Criminal Code* that relates to a tax liability:
- section 134.1 of the *Criminal Code* (obtaining property by deception);
  - section 134.2 of the *Criminal Code* (obtaining a financial advantage by deception);
  - section 135.1 of the *Criminal Code* (general dishonesty with respect to obtaining a gain, causing a loss or influencing a Commonwealth public official);
  - section 135.2 of the *Criminal Code* (obtaining a financial advantage);
- or
- section 135.4 of the *Criminal Code* (conspiracy to defraud with respect to obtaining a gain, causing a loss or influencing a Commonwealth public official).

- (b) a ‘taxation offence’ that is punishable on conviction by a fine exceeding 40 penalty units<sup>1</sup>, or imprisonment, or both.

**NOTE:** 1 penalty unit = \$110.

“*Taxation offence*” means:

- an offence against a taxation law; or
- an offence against:
  - section 6 of the *Crimes Act 1914* (being an accessory after the fact);
  - section 11.1 of the *Criminal Code* (attempting to commit an offence);
  - section 11.4 of the *Criminal Code* (incitement to the commission of an offence); or
  - section 11.5 of the *Criminal Code* (conspiring with another person to commit an offence);

being an offence that relates to an offence against a taxation law.

## (iv) Sufficient number of registered individuals

To satisfy this requirement, a company must have a sufficient number of registered individuals (being, registered tax agents) to provide tax agent services to a competent standard, and to carry out supervisory arrangements.

There is no set formula for determining the number of registered individuals that a company is required to have to satisfy this requirement. It will usually depend on a number of factors, including:

- the size of the business;
- the services being offered;
- the supervisory arrangements in place; and



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- the conditions that may be imposed on the company's registration based on the qualifications and experience of its personnel.

The registered individuals may include directors, employees, contractors and staff provided under service trust arrangements.

## How does a company register?

To register as a tax agent, a company must meet the eligibility requirements set out above and lodge an application in the approved form.

The Board is required to decide the application within 6 months of receiving it. If the Board does not decide the application within this time, the Board is taken to have rejected the application. You may make an application to the Administrative Appeals Tribunal (AAT) for a review of this decision.

## 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).

## Appendix A – Examples of 'tax agent services'

The following table includes a non-exhaustive list of the types of services which may constitute a tax agent service if provided for a fee or reward.

Service	Tax agent service	Not a tax agent service
Preparing a return, notice, statement, application or other document about your client's liabilities, obligations or entitlements under a taxation law	X	
Lodging a return, notice, statement, application or other document about your client's liabilities, obligations or entitlements under a taxation law	X	
Advising your client on tax concessions for expenditure incurred on research and development activities where the service involves the application of taxation laws	X	
Assisting your client with tax concessions for expenditure incurred on research and development activities where the service involves the application of taxation laws	X	
Preparing an objection under Part IVC of the TAA 1953 against an assessment, determination, notice or decision under a taxation law	X	



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Service	Tax agent service	Not a tax agent service
Lodging an objection on behalf of your client under Part IVC of the TAA 1953 against an assessment, determination, notice or decision under a taxation law	X	
Contracting the services of a specialist to provide advice about an area of taxation law in which you have no expertise and cannot review for accuracy		X
Applying to the Commissioner or the AAT for a review of, or instituting an appeal against, a decision on an objection under Part IVC of the <i>Taxation Administration Act 1953</i>	X	
Giving your client advice about a taxation law that they can reasonably be expected to rely upon to satisfy their taxation obligations	X	
Dealing with the Commissioner on behalf of your client	X	
Services provided by an auditor of a self managed superannuation fund under the <i>Superannuation Industry (Supervision) Act 1993</i>		X
Providing general taxation advice to your client that does not involve the application or interpretation of a taxation law to the client's personal circumstances		X
Installing computer accounting software without determining default GST codes tailored to the client		X
Installing computer accounting software and determining default GST codes tailored to the client	X	
Coding tax invoices and transferring data onto a computer program for clients	X	
Reconciling data entry to ascertain the figures to be included on a client's activity statement	X	
Filling in the activity statement on behalf of an entity or instructing the entity which figures to include	X	
General training in relation to the use of computerised accounting software		X
Preparing bank reconciliations		X



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Service	Tax agent service	Not a tax agent service
Entering data		X
Ascertaining the withholding obligations for the employees' of your clients. This includes the preparation of payment summaries	X	
Providing a tax agent service as a legal service, unless it consists of preparing, or lodging, a return or a statement in the nature of a return (which will be a tax agent service).		X
Providing a tax agent service as a legal service in the course of acting for a trust or deceased estate as trustee or legal personal representative.		X