



INFORMATION SHEET

IS-L02309PW

Reviewable Decisions

This document is intended as an overview of the reviewable decisions 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*.
- '**New Board**' means the Tax Practitioners Board.
- '**Old Board**' means the Tax Agents' Board.

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)
 - Contains, 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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WHAT IS A REVIEWABLE DECISION?

A 'reviewable decision' is a decision made by a decision maker (such as an old Board or the new Board) under particular legislation which states that the decision is reviewable by an independent review body such as the Administrative Appeals Tribunal (AAT).

WHAT ARE REVIEWABLE DECISIONS UNDER THE NEW LAW?

Reviewable decisions under the new law include:

- (a) certain decisions by an old Board under the old law;
- (b) decisions by the new Board under the old law; and
- (c) decisions by the new Board under the new law.

(a) Certain decisions by an old Board under the old law

Under the old law, an application could be made to the Administrative Appeals Tribunal (AAT) for review of any one of the following decisions of an old Board:

- a decision refusing to register a person or a partnership as a tax agent;
- a decision refusing to re-register a tax agent;
- a decision refusing to allow a later time for the making of an application for re-registration as a tax agent;
- a decision to suspend or cancel the registration of a tax agent;
- a decision refusing to register a person as a nominee of a tax agent;
- a decision refusing to re-register a person as a nominee of a tax agent;
- a decision refusing to allow a later time for the making of an application for re-registration as a nominee of a tax agent;
- a decision to cancel the registration of a nominee of a tax agent.



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Under the new law, applications may still be made to the AAT for review of any one of the above decisions of an old Board if, at commencement of the new law, the period for making an application for review has not ended.

Generally, the period for making an application for review will end on the 28th day after the day on which the affected entity receives notice from the old Board of the reasons for its decision.

NOTE: The application for review is made under the old law because the decision which you are seeking to have reviewed was made under the old law.

(b) Decisions by the new Board under the old law

There may be instances where:

- (i) an application has been made to an old Board; or
- (ii) an inquiry has been commenced by an old Board (by way of a ‘*show cause notice*’);

but the application or inquiry was not decided or resolved at commencement of the new law. In other words, the application or inquiry was **pending** at commencement of the new law on 1 March 2010.

In this case, the new Board is required to “step into the shoes” of the old Board and make a decision in accordance with the old law because that was the law in force when the application was made or the inquiry was commenced.

In these circumstances, the new law continues to allow an application to be made to the AAT, after commencement of the new law, for review of any one of the following decisions made by the new Board:

- a decision to reject an application for registration as a tax agent;
- a decision to reject an application for re-registration as a tax agent;
- a decision to refuse a request to allow an application for re-registration as a tax agent to be made at a later time;
- a decision to reject an application for registration as a nominee;
- a decision to reject an application for re-registration as a nominee;



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- a decision to refuse a request to allow an application for re-registration as a nominee to be made at a later time;
- in cases where an old Board has issued a ‘*show cause notice*’, and the new Board has subsequently decided to investigate the entity in accordance with the new law, a decision to suspend or cancel the registration of that entity.

A “*show cause notice*” means a written notice to an entity that:

- sets out the grounds on which an old Board is giving the notice; and
- invites the entity to respond to the old Board, in writing, addressing the grounds on which the old Board has given the notice; and
- states the period within which the entity must give the written response to the old Board.

NOTE: The application for review is made under the old law because the decision which you are seeking to have reviewed was made under the old law.

(c) Decisions by the new Board under the new law

Under the new law, an application may be made to the AAT for review of any one of the following decisions of the new Board:

- a decision to reject an application for registration (including renewal of registration);
- a decision to specify a condition to which registration is subject;
- a decision to require professional indemnity insurance to be maintained;
- a decision to refuse to vary a condition to which registration is subject;
- a decision not to allow a shorter period for making a renewal application;
- a decision to terminate registration;
- a decision to make an order or to specify a time period in respect of an order;
- a decision to suspend registration (including a decision as to the length of the suspension);



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- a decision to determine a period during which an application for registration may not be made;
- a decision to extend the period of time within which an investigation is to be completed;
- a decision to refuse to recognise an organisation as a recognised BAS agent association;
- a decision to terminate the recognition of a recognised BAS agent association;
- a decision to refuse to recognise an organisation as a recognised professional association;
- a decision to terminate the recognition of a recognised professional association.

NOTE: The application for review is made under the new law because the decision which you are seeking to have reviewed was made under the new law.

WHO CAN SEEK REVIEW OF A REVIEWABLE DECISION?

Any person whose interests are affected by a reviewable decision of an old Board or the new Board can seek review of that decision by the AAT.

HOW DO YOU MAKE AN APPLICATION FOR REVIEW?

If you wish to make an application for review regarding a reviewable decision of an old Board or the new Board, you should lodge an Application for Review with the AAT in the proper form. Generally, you are required to lodge the application within 28 days of receiving notice of the Board's decision.

The application is made under the *Administrative Appeals Tribunal Act 1975* and according to its rules.

If you require further information regarding your review rights or the review process, please contact the AAT – www.aat.gov.au.

NEED MORE INFORMATION?

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