

# Explanatory Paper

## TPB(EP) 08/2022

### Continuing professional education policy requirements for tax agents with a tax (financial) advice services condition

This Tax Practitioners Board (TPB) explanatory paper (TPB(EP)) provides a detailed explanation of the TPB's continuing professional education (CPE) requirements for tax agents with a tax (financial) advice services condition. Further, it explains the TPB's interpretation of the provisions in the *Tax Agent Services Act 2009* (TASA) relating to the CPE requirement, translating these provisions into practical principles that can be applied by the profession.

The principles, explanations and examples in this paper do not constitute legal advice.

#### **Currency of details of the CPE requirement**

The TPB intends to review the details of its CPE requirements periodically, with a view to making any necessary refinements for the future. The TPB reserves the right to amend its CPE requirements at any point, including before any formal review, if it becomes necessary to do so.

#### **Key terms**

The Key terms section lists a number of key terms and the meaning they have in this TPB(EP).

#### **Document history**

The TPB released this EP on 1 January 2022.

On 1 April 2022, the TPB updated this TPB(EP) to replace references from the repealed Tax Agent Services Regulations 2009 to Tax Agent Services Regulations 2022.

On 1 July 2022, the TPB updated this TPB(EP) to incorporate changes from the new CPE policy.

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## Overview

1. This Tax Practitioners Board (TPB) explanatory paper (TPB(EP)) sets out the TPB's continuing professional education (CPE) requirements for tax agents with a tax (financial) advice services condition. Further, it provides guidance to registered tax agents with a tax (financial) advice services condition on meeting their obligations under the *Tax Agent Services Act 2009* (TASA), including the Code of Professional Conduct (Code).
2. The TPB considers that CPE is the process of maintaining and improving a professional's knowledge and skills. CPE is also a means by which registered tax agents with a tax (financial) advice services condition maintain and build upon their primary qualifications, used to gain initial registration under the TASA. It is imperative that the knowledge and skills of a registered tax agent with a tax (financial) advice service condition adapt and improve as the law, society and their individual practice changes. Further, it is a requirement for all individual registered tax agents with a tax (financial) advice service condition to have, upon renewal of registration, completed CPE that meets the TPB's requirements.
3. The TPB recognises that CPE is also commonly referred to by professional associations as continuing professional development (CPD). The term CPE is used in this TPB(EP) as this is how the concept of professional development is referred to in the TASA, the Tax Agent Services Regulations 2022 (TASR) and the Explanatory Memorandum to the Tax Agent Services Bill 2008.<sup>1</sup>

## Objective

4. Businesses increasingly operate in a globalised setting subject to continuous change. The TASA acknowledges this reality in the following ways:
  - a) The object of the TASA is to ensure that tax agent services<sup>2</sup> are provided to the public in accordance with appropriate standards of professional and ethical conduct.<sup>3</sup> Therefore, the TASA has a consumer protection imperative. The completion of relevant CPE will assist registered tax agents with a tax (financial) advice service condition to ensure that their knowledge and skills are maintained for the benefit of their clients and the broader community.
  - b) Paragraph 20-5(1)(d) of the TASA imposes a mandatory obligation on all registered tax agents to have completed CPE that meets the TPB's requirements to renew their registration.<sup>4</sup>

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<sup>1</sup> See also paragraphs 32 to 35 of this TPB(EP) for further information in relation to recognition of other CPE / CPD.

<sup>2</sup> The definition of tax agent service includes a tax (financial) advice service. See the key terms section of this TPB(EP).

<sup>3</sup> Section 2-5 of the TASA.

<sup>4</sup> See also paragraph 7(a) of this TPB(EP).

- c) Section 30-10 of the TASA, containing the Code, regulates the personal and professional conduct of registered tax agents, and includes obligations relating to maintaining knowledge and skills and taking reasonable care.<sup>5</sup>
5. The TASA reinforces the view that it is essential for registered tax agents with a tax (financial) advice services condition to maintain their knowledge and skills throughout their professional life. This includes completing more significant CPE during periods of legislative change and to account for changes to the individual circumstances of a registered tax agent with a tax (financial) advice services condition. The principles contained in this TPB(EP) will therefore assist registered tax agents with a tax (financial) advice services condition to meet their obligations under the TASA as described above.

## Legislative background

6. This TPB(EP) provides guidance on the application of the renewal of registration requirement contained in paragraph 20-5(1)(d) of the TASA and elements of the Code set out in section 30-10 of the TASA.
7. All registered tax agents with a tax (financial) advice services condition are required to comply with:
- a) paragraph 20-5(1)(d) of the TASA which requires registered tax agents to, upon renewal of registration, demonstrate that they have completed CPE that meets the TPB's requirements; and
  - b) section 30-10 of the TASA which relevantly requires that:
    - (8) You must maintain knowledge and skills relevant to the \*tax agent services that you provide....*<sup>6</sup>
    - (10) You must take reasonable care to ensure that \*taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client....*
    - (12) You must advise your client of the client's rights and obligations under the \*taxation laws that are materially related to the \*tax agent services you provide'.*

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<sup>5</sup> See paragraph 7(b) of this TPB(EP) for further information on the items of the Code.

<sup>6</sup> Use of a '\*\*' in the TASA indicates that the term is defined in the dictionary (Division 90) of the TASA.

8. Paragraphs 3.45 and 3.46 of the Explanatory Memorandum to the Tax Agent Services Bill 2008 relevantly state that:

*'... Keeping up-to-date with developments in the relevant taxation laws and tax administration **may** require agents to undergo a certain minimum number of hours of tax related **continuing professional education** per year as determined by the Board.*

*3.46 The Board may issue a guideline listing the training that is available in the market (including face-to-face training courses, distance learning and online courses) as being sufficient for continuing professional education purposes for this principle of the Code. For this purpose, any person or organisation can make a recommendation to the Board to have their training courses listed. The courses are not restricted only to those offered by recognised professional associations, recognised BAS agent associations, tax agents or BAS agents.<sup>7</sup>*

9. Further, the Explanatory Memorandum to the Tax Laws Amendment (2013 Measures No. 3) Bill 2013 provides that the amendments make it a registration requirement for individuals seeking to renew their registration to have met the TPB's CPE requirements. This ensures that registered individuals maintain their skills and knowledge for the benefit of their clients.<sup>8</sup>

## CPE principles

10. The legislative principles and provisions described above recognise that registered tax agents with a tax (financial) advice services condition must complete relevant CPE to renew their registration, and also to assist in complying with their obligations under the Code.
11. CPE refreshes and updates the core body of knowledge that is essential to the services provided by each registered tax agent with a tax (financial) advice services condition, building upon and maintaining the relevance of the educational background of a registered tax agent with a tax (financial) advice services condition.
12. The following principles underpin the TPB's CPE requirements:
- a) It is a registration renewal requirement for registered tax agents with a tax (financial) advice services condition to have completed CPE that meets the TPB's requirements.<sup>9</sup>

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<sup>7</sup> Paragraphs 3.45 and 3.46 of the Explanatory Memorandum to the Tax Agent Services Bill 2008.

<sup>8</sup> Paragraph 3.116 of the Explanatory Memorandum to the *Tax Laws Amendment (2013 Measures No. 3) Bill 2013*.

<sup>9</sup> See paragraph 20-5(1)(d) of the TASA.

- b) CPE contributes to the maintenance of contemporary and relevant knowledge and skills required of registered tax agents with a tax (financial) advice services condition to comply with the Code.<sup>10</sup>
- c) The Courts have previously indicated in a number of cases that continued registration requires that registered individuals be competent. The maintenance of competence by a registered tax agent with a tax (financial) advice services condition requires continuing awareness, understanding and up-to-date knowledge of relevant technical, legal and business developments. A registered tax agent with a tax (financial) advice services condition who has maintained their knowledge and skills is better equipped to advise their clients and apply the taxation laws to individual circumstances and therefore to comply with the Code.<sup>11</sup> In *Stasos v Tax Agents' Board* [1990] FCA 379, Hill J stated at paragraph 49:

*'once registered, however, the tax agent must keep up to date with the massive changes to the income tax law, no easy task in the present time, so that he can properly advise and represent his clients. That is a responsibility which comes with the privileged position in which he is placed.'*<sup>12</sup>

- d) The TPB acknowledges that the scope of services provided by registered tax agents with a tax (financial) advice services condition is narrower than those provided by tax agents, as tax (financial) advice services are a subset of tax agent services. Therefore, the minimum level of relevant CPE that should be completed by tax agents with a tax (financial) advice services condition<sup>13</sup> is **60 hours over three years.**

## What does this mean for tax agents with a tax (financial) advice services condition?

- 13. This TPB(EP) provides guidance on the application of the TASA, particularly in relation to the requirements as to CPE. Registered tax agents with a tax (financial) advice services condition unfamiliar with professional regulation will benefit most from this guidance.

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<sup>10</sup> Section 30-5 of the TASA provides that the Code applies to all registered tax agents and BAS agents. If, following an investigation under Subdivision 60-E of the TASA, the TPB is satisfied that a registered tax agent or BAS agent has failed to comply with the Code, it may impose one or more administrative sanctions under section 30-15 of the TASA. Sanctions the TPB can impose include a written caution, a period of suspension, termination of registration or an order to take specified actions. The severity of a sanction will depend on the TPB's consideration of the nature and extent of the breach and the circumstances of each case.

<sup>11</sup> See in particular subsections 30-10(8), 30-10(10) and 30-10(12) of the TASA.

<sup>12</sup> See further *Comino v Tax Agents Board of NSW* [2009] AATA 766 at paragraph 34 and *Re Su and Tax Agents' Board of South Australia* 82 ATC 4284.

<sup>13</sup> See the Key terms section of this TPB(EP).

14. The TPB does not intend to provide regular CPE activities. However, the TPB may conduct webinars, road-shows or other activities from time to time which may qualify as relevant CPE.
15. For clarity, it is noted that at this time the TPB does not propose to accredit or approve CPE activities. Registered tax agents with a tax (financial) advice services condition should exercise their professional judgment in selecting relevant CPE activities to be completed.

## What does this mean for consumers?

16. The TPB expects that its CPE requirements will assist in maintaining, and where necessary, raising standards within the registered tax agent with a tax (financial) advice condition profession and help promote consumer protection. When engaging a tax agent with a tax (financial) advice services condition (commonly referred to as tax practitioner) to provide tax (financial) advice services, the TPB encourages the public to ask whether the tax practitioner is registered with the TPB. Using a registered tax agent with a tax (financial) advice services condition should ensure that the tax practitioner maintains appropriate standards of professional and ethical conduct.

## CPE requirements and examples

### CPE for tax agents with a tax (financial) advice services condition

17. Registered tax agents with a tax (financial) advice condition should complete a minimum of 60 hours of CPE over three years. CPE completed should be relevant to the tax (financial) advice services provided by the registered tax practitioner.
18. The TPB recognises that for various reasons the number of hours of CPE completed by a tax agent with a tax (financial) advice services condition in a given year may vary. To allow for flexibility in these situations, tax agents with a tax (financial) advice condition are able to complete their CPE over a three-year period, and generally in line with the tax practitioner's registration period.
19. This means that a tax agent with a tax (financial) advice services condition must ensure that at the end of their CPE period (three years) a minimum of 60 hours of CPE has been completed. The TPB considers that not less than seven hours of relevant CPE should be completed in any given year of the tax practitioner's CPE period.

20. The CPE period for a tax agent with a tax (financial) advice services condition will begin on the date the tax practitioner is registered and end on the date the practitioner's registration expires in respect of that registration (generally three years). If the registration period of a tax agent with a tax (financial) advice services condition is for a period other than three years, the tax practitioner should complete CPE on a pro-rata basis.
21. However, tax agents who are members of a recognised professional association may elect a CPE period beginning either on 1 January in the calendar year or on 1 July in the financial year, following the date the tax practitioner is registered, providing a record of the CPE activities is maintained in accordance with the requirements set out in paragraph 37. This is to allow those tax practitioners to align their CPE period with the CPE period of their recognised professional association. Generally, once an election is made, the CPE period cannot be altered.<sup>14</sup>
22. The TPB acknowledges that there will be many tax agents with a tax (financial) advice services condition who are members of professional associations that have their own CPE requirements. Further, these CPE requirements may be administered on a points-based system where certain activities attract two or more points. In these circumstances, the TPB is of the view that one hour of relevant CPE activity completed will be considered one hour of CPE for the purposes of the TPB's CPE policy, irrespective of how many points the same CPE activity attracts for any other purpose.

#### **Example 1**

Allison is a registered tax agent with a tax (financial) advice services condition. Her registration is from 1 January 2022 to 31 December 2024.

During the first year of her registration (from 1 January 2022 to 31 December 2022), Allison completes seven hours of relevant CPE. In her second year (from 1 January 2023 to 31 December 2023), Allison completes nine hours of relevant CPE.

In her third year (from 1 January 2024 to 31 December 2024), Allison will be required to complete at least 44 hours of relevant CPE to meet the TPB's CPE renewal of registration requirement.

## What is relevant CPE?

23. The TPB considers relevant CPE to be the maintenance of contemporary and relevant knowledge and skills.

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<sup>14</sup> A tax agent may only alter their election in circumstances where they become a member of another recognised professional association.



24. CPE completed by registered tax agents with a tax (financial) advice services condition should be relevant to the tax (financial) advice services they provide and the development of their relevant personal knowledge and skills. Further, CPE activities should be provided by persons or organisations with suitable qualifications and/or practical experience in the relevant subject area.
25. The TPB does not intend to be prescriptive regarding particular topics for CPE activities which should be completed. Registered tax agents with a tax (financial) advice services condition should exercise their professional judgment in selecting relevant CPE activities to be completed.<sup>15</sup>

#### **Example 2**

Mitch is a registered tax agent with a tax (financial) advice services condition. Mitch attends a training session provided by Slick Software. Mitch uses the Deluxe Slick software package to assist him in providing tax (financial) advice services to clients.

The TPB considers that while this training session is indirectly relevant to the tax (financial) advice services Mitch provides, it will be considered as relevant CPE because effective and accurate use of the software package impacts on the skills Mitch needs to competently provide tax (financial) advice services to clients.

#### **Example 3**

Nick is a registered tax agent with a tax (financial) advice services condition. Nick attends a two-hour seminar regarding a new financial product that he intends to recommend as part of the tax (financial) advice services he provides. The seminar includes a 15-minute discussion regarding the various taxation implications concerning the financial product.

As the financial product is relevant to the tax (financial) advice services that Nick provides, Nick can claim his attendance at the seminar as relevant CPE. The TPB considers that Nick can claim the full two hours as relevant CPE, despite the seminar covering topics other than taxation.

#### **Example 4**

Klay is a registered tax agent with a tax (financial) advice services condition. Klay uses web-based applications to support him in providing tax (financial) advice services to his clients. Klay completes a cyber-security awareness training package.

The TPB considers this training package as relevant CPE because effective and prudent use of the web-based applications impacts on the skills Klay needs to competently provide tax (financial) advice services to clients.

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<sup>15</sup> See paragraph 28 of this TPB(EP) for examples of relevant CPE activities.

26. The completion of a primary course of education which has been used for the purpose of gaining initial registration as a tax agent with a tax (financial) advice services condition, or renewing such registration, will not generally constitute a CPE activity. However, a subsequent or higher level of course relevant to the tax (financial) advice services provided may be acceptable.
27. During periods of legislative change or where changes occur to the professional practice of a registered tax agent with a tax (financial) advice services condition, the practitioner should complete sufficient CPE to meet their knowledge and skill requirements. It is essential for registered tax agents with a tax (financial) advice services condition to maintain their knowledge and skills in order to provide competent and contemporaneous services to clients.

#### **Example 5**

Clarke is a registered tax agent with a tax (financial) advice services condition. Clarke completes a unit of study through the Smart State TAFE that deals with the provisions of the TASA, including the Code, and its practical application for tax agents with a tax (financial) advice service condition and their practice.

This unit of study may count as CPE because Clarke is enhancing his knowledge of the regulatory regime in which he operates. Having knowledge of the obligations under the TASA of a registered tax agent with a tax (financial) advice service condition will benefit Clarke in providing tax (financial) advice services to the public.

## **CPE activities**

28. Examples of relevant CPE activities include:
- a) seminars, workshops, webinars, courses and lectures
  - b) structured conferences and discussion groups (including those completed by telephone or video conference)
  - c) tertiary courses provided by universities, registered training organisations (RTOs), other registered higher education institutions or other approved course providers (including distance learning)<sup>16</sup>
  - d) other educational activities, provided by an appropriate organisation
  - e) research, writing and presentation by the registered tax agent with a tax (financial) advice services condition of technical publications or structured training

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<sup>16</sup> See also paragraph 32 of this TPB(EP).

- f) peer review of research and writing submitted for publication or presentation in structured training
- g) computer/internet-assisted courses, audio or video packages
- h) attendance at structured in-house training on tax related subjects by persons or organisations with suitable qualifications and/or practical experience in the subject area covered
- i) attendance at appropriate TPB and/or ATO seminars and presentations
- j) relevant CPE activities provided to members and non-members by a recognised professional association
- k) a unit of study or other CPE activity on the TASA, including the Code.

#### **Example 6**

Amy is a registered tax agent with a tax (financial) advice service condition who works for a major financial services firm. Amy is required by her employer to attend CPE provided by a director of the firm, who specialises in superannuation. The director presents a session on the taxation of complying superannuation funds, approved deposit funds, pooled superannuation trusts and providers of retirement savings accounts governed by Part 3-30, Division 295 of the *Income Tax Assessment Act 1997* (ITAA 1997), followed by an interactive discussion and consideration of a complex hypothetical case study.

As the CPE activity is structured and provided by a suitably qualified person, Amy may count this session as CPE.

- 29. The TPB expects that not more than 25 per cent of CPE for the CPE period of a registered tax agent with a tax (financial) advice services condition should be completed through relevant technical or professional reading. Relevant technical or professional reading may include visual and audio resources.
- 30. In addition, the TPB will allow registered tax agents with a tax (financial) advice services condition to undertake educative health and wellbeing activities, providing the activities constitute no more than 10 per cent of CPE over their CPE period. These activities could include attending webinars about how to manage stress and self-care, including in relation to the management of staff health and wellbeing.

### Example 7

Dave is a registered tax agent with a tax (financial) advice services condition.

In the first year of his CPE period, Dave attended a one-hour seminar during Mental Health Month on the topic of managing for wellbeing. In the second year of his CPE period, Dave attended a four-hour conference covering topics such as how to manage trauma in the workplace and implementing flexible work and health arrangements in the workplace. In the third year, Dave attended a one-hour webinar on stress management techniques.

As Dave has undertaken no more than 10 per cent of his CPE in educative health and wellbeing activities, he can count the six hours towards his CPE for the relevant CPE period.

31. The provision of a tax (financial) advice service will not, of itself, constitute a CPE activity.

## Recognition of other CPE

32. The TPB acknowledges the CPE or CPD<sup>17</sup> requirements imposed on registered tax agents with a tax (financial) advice services condition who are members of a relevant recognised professional association<sup>18</sup> (recognised tax agent association) as a condition of their membership. Where a registered tax agent with a tax (financial) advice service condition is a member of a recognised tax agent association, the TPB will accept the compliance of the tax practitioner with their association's CPE / CPD requirements, subject to the following:

- the activities completed must be relevant to the tax (financial) advice services provided
- the activities completed must be provided by persons or organisations with suitable qualifications and/or practical experience in the subject area
- the CPE / CPD completed meets the minimum level of CPE as specified in paragraphs 17 to 19 of this TPB(EP).

### Example 7

Tim is a member of a recognised tax agent association. Tim's practice primarily deals with superannuation and life insurance matters.

Tim attends a CPE seminar provided by the association in relation to its potential merger with an international accounting association.

As this seminar is not relevant to the tax (financial) advice services provided by Tim, the seminar would not be considered to be relevant CPE by the TPB.

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<sup>17</sup> The term CPE is used in this TPB(EP) as this is how the concept of professional development is referred to in the *Tax Agent Services Act 2009*, the *Tax Agent Services Regulations 2022* and the *Explanatory Memorandum to the Tax Agent Services Bill 2008*.

<sup>18</sup> See the Key terms section of this TPB(EP).

33. The TPB recognises that members of a recognised tax agent association may have a different CPE period as compared to the three-year period under the TPB's CPE requirements. Further, registered tax agents with a tax (financial) advice services condition may have a different CPE period for the purposes of compliance with relevant provisions of the *Corporations Act 2001*.
34. The TPB expects that at the end of the TPB's CPE period of a registered tax agent with a tax (financial) advice services condition, a practitioner who is relying on the CPE completed for a recognised tax agent association, or for compliance with the *Corporations Act 2001*, should be able to demonstrate that they have complied with their CPE obligations with the recognised tax agent association and/or the *Corporations Act 2001*. In doing so, they will also comply with their current TPB CPE obligations.
35. In any case, the TPB considers that not less than seven hours of relevant CPE by tax agents with a tax (financial) advice services condition should be completed in any given year.

## Recording CPE activities

36. The TPB considers that an important aspect of maintaining knowledge and skills involves recording and reflecting on CPE completed. Effective record keeping allows a registered tax agent with a tax (financial) advice services condition to ensure that an appropriate amount and type of CPE is completed in relation to the areas in which a registered tax agent with a tax (financial) advice services condition practises.
37. Registered tax agents with a tax (financial) advice services condition should ensure that a contemporaneous record and evidence of their completed CPE activities is maintained. This means that records must be made as soon as possible and practicable after the CPE activity is completed and should include details of the activities and the hours completed. In addition, where the CPE activity is unstructured (such as relevant technical or professional reading, self-paced audio, visual and computer aided instruction, or group discussions on technical topics) or where evidence of completion of CPE does not provide sufficient detail concerning the CPE activity, the record should contain sufficient details as to the relevance of the CPE activity to the tax (financial) advice services provided.
38. To assist, the TPB has developed and made available on its website an appropriate [CPE log](#) for registered tax agents with a tax (financial) advice services condition to use. The TPB does not expect that an additional CPE log or record be maintained where a record is already maintained to satisfy the practitioner's membership requirements of a recognised professional association, or where an appropriate record is maintained to satisfy relevant obligations under the *Corporations Act 2001*.
39. Records should be kept for a period of five years from the end of the CPE period of the registered tax agent with a tax (financial) advice services condition.

40. The TPB will require confirmation of CPE completed upon renewal of registration as a tax agent with a tax (financial) advice service condition. This verification may be in the form of registered tax agents with a tax (financial) advice services condition having to provide a record of their CPE activities (such as a CPE log) with their renewal application form, or such other form of verification (that is, declaration) that the TPB considers appropriate.
41. In addition, the TPB may from time-to-time request evidence or confirmation of CPE completed by registered tax agents with a tax (financial) advice service condition during their period of registration.<sup>19</sup> Evidence or confirmation of CPE completed may include a certificate of completion or certificate of attendance.

#### **Example 8**

Rashard attends a seminar provided by a recognised professional association in relation to changes to aspects of the capital gains tax regime. Rashard records the particulars of the course (name, date and time) and course provider on his electronic CPE log.

As Rashard receives a brochure of the seminar and email confirmation of his enrolment, he keeps these records as evidence of CPE completed. The TPB considers that Rashard has taken the appropriate steps to record his CPE.

Alternatively, if Rashard was enrolled in the seminar but did not attend it, Rashard would not be able to count the seminar as a completed CPE activity.

## Extenuating circumstances

42. The TPB acknowledges that there may be extenuating circumstances where a registered tax agent with a tax (financial) advice service condition is unable to complete the minimum level of CPE in their CPE period, or in any given year of their CPE period. Registered tax agents with a tax (financial) advice service condition should exercise their professional judgment in this regard and should keep appropriate contemporaneous records of such circumstances.
43. Examples of situations where it might not be possible to complete the minimum level of CPE include:
- a) illness and/or disability
  - b) family and/or caring commitments
  - c) financial or other hardship
  - d) natural disaster
  - e) other relevant circumstances.

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<sup>19</sup> The TPB acknowledges that a registered tax agent with a tax (financial) advice service condition may be audited by a recognised professional association of which they are a member. The TPB may consider the outcome of such an audit as evidence of CPE completed.

44. In these types of circumstances, the TPB will consider appropriate relief from the minimum level of CPE, provided the registered tax agent with a tax (financial) advice service condition can demonstrate that they have attempted to use the flexibility of their CPE period to manage any extenuating circumstances to comply with the TPB's CPE requirements.

**Example 9**

Mya is a registered tax agent with a tax (financial) advice service condition running a sole practice in the Brisbane suburbs. In early 2022, Mya is involved in a car accident and sustains serious injury. Mya is unable to work for six months and manages to complete only three hours of CPE for that year.

Mya completes 30 hours of CPE in the second year and 27 hours of CPE in the third year.

In this case, the TPB will have appropriate regard to Mya's personal circumstances and accept that Mya has completed CPE that meets the TPB's requirements, despite Mya not having completed the minimum seven hours of CPE in the first year.

45. The TPB notes that while the minimum amount of CPE may not be met in certain circumstances, registered tax agents with a tax (financial) advice services condition should be mindful that their obligation under the Code to maintain knowledge and skills relevant to the tax (financial) advice services provided cannot be abrogated. Therefore, registered tax agents with a tax (financial) advice services condition may use the flexibility of their CPE period (three years) to manage any extenuating circumstances. Registered tax agents with a tax (financial) advice services condition should also be mindful of the prescribed relevant tax (financial) advice experience requirements for renewal of registration.

**Example 10**

Hank is a registered tax agent with a tax (financial) advice services condition residing in Coober Pedy, South Australia. He provides tax (financial) advice services predominantly to individuals who work in opal mines.

Hank rarely has time to travel to Adelaide to attend face-to-face training and only makes a modest income. However, Hank is careful to maintain his knowledge and skills by completing online learning packages and participating in online discussion groups as well monitoring updates on the ATO website and completing technical reading.

During a typical CPE period Hank completes two face-to-face seminars (total of seven hours), participates in structured online discussion groups (total of 38 hours), completes one internet assisted course (total of two hours) and undertakes 15 hours of technical reading.

The TPB considers that Hank has completed the minimum level of CPE.

# Compliance with the Code of Professional Conduct

46. Completion of at least the minimum level of relevant CPE outlined in this TPB(EP) will be considered by the TPB as one of the factors which would evidence compliance by a registered tax agent with a tax (financial) advice service condition with relevant items of the Code, contained in section 30-10 of the TASA.
47. If the TPB is satisfied after conducting an investigation under Subdivision 60-E of the TASA, that a registered tax agent with a tax (financial) advice service condition has failed to comply with the Code, the TPB may, among other things, give the tax practitioner an order under section 30-20 of the TASA to take specified actions. This may include completing a course of education or training.

## Commencement arrangements

48. The new CPE policy commenced on 1 July 2022.
49. For new registrations commencing on or after 1 July 2022, the new CPE policy will take effect from the date of registration.
50. For registered tax agents with a tax (financial) advice services condition who are renewing their registration after 1 July 2022, the new CPE policy will apply from the date of renewal of registration.

### **CPE period for registered tax agents with a tax (financial) advice services condition who are members of a professional association**

51. For registered tax agents with a tax (financial) advice services condition who are members of a recognised professional association and who elect to align their CPE period with the CPE period of their recognised professional association, the CPE period will commence from 1 July or 1 January following registration or renewal of registration after 1 July 2022.



**Example 11**

Alicia is currently registered as a tax agent with a tax (financial) advice services condition. Her next renewal is due on 1 October 2024 (30 days before her registration is due to expire). Alicia is a member of a recognised professional association.

Assuming Alicia's renewal application is approved, her registration date will be 1 November 2024. From that date, Alicia will be subject to the TPB's new CPE requirements.

However, as Alicia is a member of a recognised professional association, she elects to align her CPE period with the CPE period of her association, which is based on a financial year. This means that Alicia's first CPE period will commence on 1 July 2025 and end 30 June 2028.

**CPE period for registered tax agents with a tax (financial) advice services condition who are not members of a professional association**

52. For registered tax agents with a tax (financial) advice services condition who are not members of a recognised professional association, the CPE period will commence from the date of registration or the date of renewal of registration.

**Example 12**

Josh is currently registered as a tax agent with a tax (financial) advice services condition and his next renewal is due on 1 December 2024 (30 days before his registration is due to expire). Josh is not a member of a recognised professional association.

Assuming Josh's renewal application is approved, his registration date will be 1 November 2024. From that date, Josh will be subject to the TPB's new CPE requirements.

As Josh is not a member of a recognised professional association, his CPE period will commence on 1 November 2024 and end on 31 October 2027.

## Key terms

<b>BAS agent</b>	This term refers to an entity registered by the TPB as a BAS agent under section 20-25 of the <i>Tax Agent Services Act 2009</i> . To be registered as a BAS agent the entity must, among other things, meet the requirements relating to qualifications and experience listed in Part 1 of Schedule 2 to the Tax Agent Services Regulations 2022.
<b>BAS service</b>	This term has the meaning given to it in section 90-10 of the <i>Tax Agent Services Act 2009</i> . A BAS service is a 'tax agent service' - see 'tax agent service' in this section.
<b>Code of Professional Conduct (Code)</b>	The Code is contained in section 30-10 of the <i>Tax Agent Services Act 2009</i> . It sets out standards of professional and ethical conduct with which registered tax and BAS agents must comply.
<b>CPE</b>	Continuing professional education (CPE) is also commonly referred to by professional associations as continuing professional development (CPD).
<b>CPE period</b>	<p>The CPE period of a registered tax agent with a tax (financial) advice services condition is generally three years. The CPE period begins on the date the tax practitioner is registered and ends on the date the tax practitioner's registration expires in respect of that registration.</p> <p>Tax practitioners who are members of recognised professional associations may elect their CPE period to begin either on 1 January or 1 July to align with their professional association's CPE period.</p>
<b>Recognised professional association</b>	A recognised professional association is an organisation that applies to the TPB for recognition and the TPB decides to recognise the association (as a recognised tax agent association and/or recognised BAS agent association) under the Tax Agent Services Regulations 2022.
<b>Tax agent</b>	This term refers to an entity registered by the TPB as a tax agent under section 20-25 of the <i>Tax Agent Services Act 2009</i> . To be registered as an individual tax agent the entity must, among other things, meet the requirements relating to qualifications and experience listed in Part 2 of Schedule 2 to the Tax Agent Services Regulations 2022.

<b>Tax agent service</b>	This term has the meaning given to it in section 90-5 of the <i>Tax Agent Services Act 2009</i> . The definition of tax agent service includes BAS services and tax (financial) advice services.
<b>Tax (financial) advice service</b>	This term has the meaning given to it in section 90-15 of the <i>Tax Agent Services Act 2009</i> . A tax (financial) advice service is a 'tax agent service' - see 'tax agent service' in this section.

## Related document

### Explanatory paper

[TPB\(EP\) 07/2021: Continuing professional education requirements for tax and BAS agents from 1 July 2022](#)