



Australian Government



TAX  
PRACTITIONERS  
BOARD

# INFORMATION FOR TAX PRACTITIONERS

## PROHIBITION OF CERTAIN ARRANGEMENTS WITH DISQUALIFIED ENTITIES

### Overview

Code of Professional Conduct (Code) item 16 prohibits you from having certain arrangements, in connection with providing tax agent or BAS services, with an entity that you know (or ought reasonably to know) is a disqualified entity.

This Code item is intended to prevent arrangements where an unregistered disqualified entity is operating 'through' a registered tax practitioner.

This Code item will assist in protecting consumers, reducing tax fraud and protecting the integrity of the tax system.

### Who is a disqualified entity?

An entity will be a 'disqualified entity' if a disqualifying event has occurred within the last 5 years. See events list below.

An entity cannot be a disqualified entity if they are currently registered as a tax agent, BAS agent or qualified tax relevant provider (QTRP).

### What is an 'arrangement' under Code item 16

An 'arrangement' under Code item 16 may include any arrangement, agreement (formal and informal), understanding, promise or undertaking, whether express or implied, and whether or not legally enforceable, between a tax practitioner

and an unregistered entity in connection with providing tax agent or BAS services.

The circumstances of an arrangement can vary significantly and will be considered on a case-by-case basis. One example is an arrangement where an unregistered disqualified entity acts as the 'controlling mind' of a tax practitioner and provides tax agent services using the tax practitioner's credentials. These types of arrangements contravene the *Tax Agent Services Act 2009* (TASA) and cannot be approved by the TPB.

Refer to [TPB\(I\) 42/2024 Code of Professional Conduct – Prohibition on providing tax agent services in connection with an arrangement with a disqualified entity](#) for further information and case examples.

## DISQUALIFYING EVENTS

- Has been convicted of a serious taxation offence.
- Has been convicted of a serious offence (an offence against an Australian law that is punishable by imprisonment for a period exceeding 12 months).
- Has been convicted of an offence involving fraud or dishonesty.
- Has been penalised for being a promoter of a tax exploitation scheme.
- 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.
- Has become an undischarged bankrupt (even if they are no longer an undischarged bankrupt) or gone into external administration.
- Has been found to have contravened the TASA by the TPB or a Court.
- Has had sanctions imposed for failing to comply with the Code.
- Has had their registration or renewal application rejected for eligibility reasons other than education or experience requirements.
- Has had their registration terminated due to an event affecting their continued registration had occurred, ceasing to meet a tax practitioner registration requirement or breaching a condition of registration.

## Determine if an entity is disqualified

You must take reasonable steps and make reasonable enquiries to determine if an entity you enter into or have an arrangement with, in connection with providing tax agent or BAS services, is a disqualified entity.

As a minimum, follow these steps:

1. Check the [TPB Public Register](#) and ASIC's [Financial Advisers Register](#) to see if the entity is currently registered as a tax agent, BAS agent or QTRP. If they are registered, they cannot be a disqualified entity.
2. Check the TPB Public Register for details of any TPB sanctions or disciplinary actions imposed on the entity, or any rejected applications for registration or renewal, within the last 5 years.
3. Undertake [proof-of-identity checks on the entity](#), discuss the requirements of Code item 16 and obtain written confirmation (using [our form](#)) that they are not a disqualified entity.
4. Have a written arrangement with the entity to notify you as soon as possible if a disqualifying event occurs and to enable you to cease providing tax agent or BAS services in connection with the arrangement if they become disqualified.

## If you already know or otherwise become aware that the entity is (or becomes) disqualified

You must consider your options to immediately cease providing tax agent or BAS services in connection with the arrangement with the disqualified entity. We recommend that you seek independent legal advice about your obligations under contract or employment law.

The TPB cannot approve these types of arrangements with disqualified entities in connection with providing tax agent or BAS services.

## Failure to comply

If you enter into or maintain an arrangement with a disqualified entity that is prohibited by Code item 16, you will be in breach of the Code and may be liable for sanctions for the breach, including termination of your registration.

A breach of Code item 16 may also impact on other requirements in the TASA, including:

- fit and proper person requirements to maintain registration as a tax or BAS agent
- other Code items, including Code item 1 (relating to honesty and integrity) and Code item 7 (relating to ensuring tax agent services are provided competently).

An entity that fails to notify you that they are a disqualified entity may also be liable for civil penalties.

## Record keeping

You must keep records relevant to providing tax agent or BAS services in connection with an arrangement with a disqualified entity, including notes of any discussion or documentation provided by the entity, for at least **5 years** after ceasing the arrangement.

### Further information

For further information, see [TPB\(I\) 42/2024 Code of Professional Conduct - Prohibition on providing tax agent services in connection with an arrangement with a disqualified entity](#)