



Australian Government



INFORMATION FOR DISQUALIFIED ENTITIES

KNOW YOUR OBLIGATIONS WHEN SEEKING TO PROVIDE TAX AGENT OR BAS SERVICES ON BEHALF OF A REGISTERED TAX PRACTITIONER

Overview

Under Code of Professional Conduct (Code) item 15, if you are a disqualified entity, you cannot be employed or used to provide tax agent or BAS services on behalf of a registered tax practitioner, unless the tax practitioner has the approval of the Tax Practitioners Board (TPB).

Code item 16 also prohibits tax practitioners from having certain arrangements with a disqualified entity in connection with providing tax agent or BAS services.

These obligations on tax practitioners assist in protecting consumers, reducing tax fraud and ensuring those providing tax agent or BAS services have appropriate ethical and professional standards.

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).

Do you provide a tax agent or BAS service on behalf of a tax practitioner?

You provide a tax agent or BAS service on behalf of a tax practitioner if you are required to be under the tax practitioner's supervision and control in providing the service.

You may provide these services as an employee, associate, contractor, or any other entity that provides tax agent or BAS services on a tax practitioner's behalf, even if these services are outsourced or provided offshore.

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 *Tax Agent Services Act 2009* (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.

Obligation to notify tax practitioners

Before you can provide tax agent or BAS services on behalf of a tax practitioner, you must notify the tax practitioner (in writing) if you are, or you become, a disqualified entity.

You may use our [Disqualifying events declaration and consent form](#) to notify the tax practitioner that you are a disqualified entity and provide details of the disqualifying event.

When should you notify

If you are (or you become) a disqualified entity

- **Before** you enter into, renew or extend a contract or arrangement to provide tax agent or BAS services on a tax practitioner's behalf.
- If you are already providing tax agent or BAS services on a tax practitioner's behalf – **within 30 days** of the day on which you become (or ought to have become) aware that you are a disqualified entity.

Penalties for failure to notify

You may be subject to [civil penalties](#) for failing to give notice about your disqualified entity status. The maximum penalty that can be applied is 250 penalty units for individuals and 1,250 penalty units for a body corporate.

What can a tax practitioner ask you?

If a tax practitioner wants you to provide a tax agent or BAS service on their behalf, they need to ensure that you have not had a disqualifying event occur in the last 5 years.

In order to meet their Code obligations, the tax practitioner may seek additional information or undertake further checks.

This may include:

- seeking information to undertake proof-of-identity checks on you to verify your identity
- checking the [TPB Public Register](#) or ASIC's [Financial Advisers Register](#) to ensure you have not had a disqualifying event occur in the last 5 years
- requiring you to complete a [Disqualifying events declaration and consent form](#) to confirm you have had not had a disqualifying event occur in the last 5 years
- entering into a written agreement that requires you to notify them as soon as possible should a disqualifying event occur later
- obtaining your written consent, if you are disqualified, to apply to the TPB for approval to employ or use you to provide tax agent or BAS services on their behalf.

Can the TPB approve an 'arrangement'?

Code item 16 **prohibits** tax practitioners from having certain arrangements with a disqualified entity in connection with providing tax agent or BAS services.

It is intended to prevent arrangements where the disqualified entity is operating 'through' the tax practitioner, such as a disqualified entity acting as the 'controlling mind' of the tax practitioner and providing tax agent services (while unregistered) using the tax practitioner's credentials.

These types of arrangements contravene the TASA and **cannot be approved by the TPB**.

i Further information

For further information, see TPB Information sheets:

- [TPB\(I\) 41/2024 Code of Professional Conduct – Employing or using a disqualified entity in the provision of tax agent services without approval](#)
- [TPB\(I\) 42/2024 Code of Professional Conduct – Prohibition on providing tax agent services in connection with an arrangement with a disqualified entity.](#)