



Australian Government



TAX
PRACTITIONERS
BOARD

How to manage and store client's documents efficiently and completely

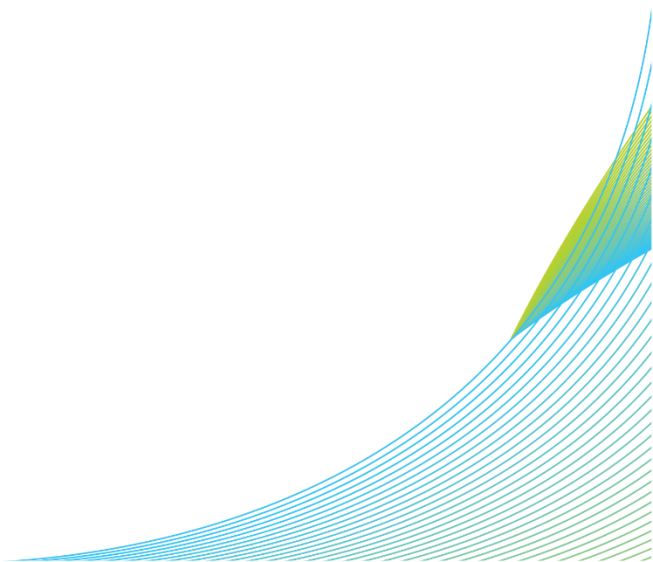
Presented by: Debra Anderson, TPB Board Member

Welcome

'In the spirit of reconciliation, we respectfully acknowledge the Traditional Owners and Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their cultures, and Elders past, present and emerging.'

Access the presentation slides: tpb.gov.au/webinar-hub

What we will cover today

- ✓ The policy's objective
 - ✓ Key elements of the obligation
 - ✓ Your client's obligations to keep and retain records
 - ✓ What to consider when keeping records
 - ✓ Quality management systems
 - ✓ Case studies
 - ✓ Q&A
- 

Policy objective

Policy objective



- Section 30 of the Code Determination details the importance of recordkeeping.
- This obligation aligns with the objective of the TASA to support public trust and confidence in the integrity of the tax profession and tax system, by ensuring tax agent services are provided in accordance with appropriate standards of professional and ethical conduct.
- This obligation also complements your existing obligations under the Code Conduct relating to the core principle of ‘competence’.

Accurate record keeping

- Accurate recordkeeping explains and evidences your actions, decisions and advice while providing tax agent services to your clients.
- This is important if and when disputes or queries arise in relation to the tax agent services you provide.
- Complying with this obligation provides you with a mechanism to clarify potential allegations of wrongdoing by referring to your records.



Obligation to keep proper client records

Obligation to keep proper client records



The records must:

- be in English, or readily accessible and easily convertible into English
- be retained for at least 5 years after the service has been provided
- show the nature, scope and outcome of the tax agent service provided
- reference information reasonably considered in the provision of the tax agent service
- include all advice received from the client
- include all advice provided to the client.

Examples of records that must be kept

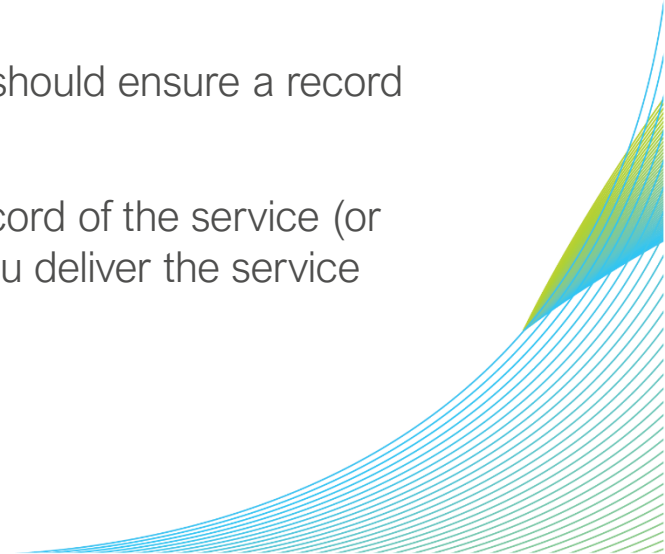


- ✓ Client details
- ✓ Letters of engagement
- ✓ Proof of identity or client verification checks
- ✓ Client permissions
- ✓ Agreements to offshore or outsource
- ✓ Records that explain or evidence the tax agent service provided
- ✓ Key client communications and records of discussion
- ✓ Key communications with third parties including copies of advice received
- ✓ Tax invoices issued to the client
- ✓ Records your client must keep and retain
- ✓ Records evidencing receipt and handling of money or property held in trust

‘Keep’ records



- The term ‘keep’ doesn't simply refer to the ‘retention’ of records already made, but also the ‘making’ of records that can then be retained or held.
- If a record is created in the ordinary course of providing a service, it must still be retained for 5-years.
- If no record is created as part of providing the service, you should ensure a record is made and retain it.
- Where possible, you should ‘keep’ a timely and accurate record of the service (or parts of the service) you provide to your clients, either as you deliver the service or as soon as practicable after you do so.



Records that ‘correctly record’ the service

- For records to ‘correctly’ record a service they need to cover all relevant details sufficient to explain and/or evidence the service.
- Records must show the nature, scope and outcome of the tax agent service provided.
- Take reasonable steps, and make reasonable enquiries where appropriate, to ensure the records correctly record the tax agent service provided.



Records of the 'tax agent services' provided



The obligation applies to each service that relates to:

- ascertaining and/or advising an entity about liabilities, obligations or entitlements that arise, or could arise, under a tax law; or
- representing an entity in their dealings with the Commissioner; and

is provided in circumstances where the entity can reasonably be expected to rely on the service for either or both of the following purposes:

- to satisfy liabilities or obligations that arise, or could arise, under a tax law
- to claim entitlements, that arise or could arise under a tax law.

Services provided by you or ‘on your behalf’



The obligation covers records of tax agent services provided by:

- employees and other entities (including contractors) you are required to exercise adequate supervision and control over
- entities with which you maintain (or are required to maintain) a:
 - supervisory plan in connection with the employment of, or use of, one or more nominated supervising tax practitioners
 - remote supervisory arrangement, as is the case with an outsourcing or offshoring arrangement.

Minimum requirements for records



- Records must evidence the:
 - kind or type of tax agent service provided
 - extent or range of the tax agent service and what it inherently involves or comprises
 - result and consequence of the tax agent service and issues involved.
- Records must include all advice received from the client and provided to them (in writing and verbally).
- If you provide a client with a range of services of varying complexity, the level of detail needed may also differ.

How records should be kept



- Records must be in English, or readily accessible and easily convertible into English.
- Records can be kept and retained in paper or electronic format.
- Electronic records must be in a form that is readily accessible and able to be retrieved as required.
- If you make copies of paper or electronic records, they must be a true and clear copy of the original.
- Records should be protected by adequate systems and controls.
- Records should be made and stored in a way that protects the record and information from being changed or damaged.

How long records need to be kept



- You must retain the records for at least 5 years after the tax agent service has been provided.
- You should reconfirm or review the arrangements with clients regularly (preferably annually) for recurring or ongoing engagements.
- Once the 5-year period has lapsed, you should consider if you need to return, de-identify and/or destroy records, considering any recordkeeping arrangement with the client and relevant privacy laws.

Case study



- Kate provides tax agent services through her company Helpful Tax Pty Ltd.
- On behalf of the company, she prepared and lodged Kevin's income tax return 4 years ago.
- She kept relevant records in accordance with the Determination.
- Recently, the ATO undertook a review of this income tax return.
- Kevin engages Helpful Tax to represent him in the ATO review.
- Kate on behalf of Helpful Tax represents Kevin in the ATO review, which is finalised 12 months later.

Records containing TFNs and TFN information



- The TFN Rule regulates the collection, storage, use, disclosure, security and disposal of individuals' TFN information by 'TFN recipients', such as registered tax practitioners.
- TFN information must only be used or disclosed by TFN recipients:
 - for a purpose authorised by taxation law, personal assistance law or superannuation law; or
 - for the purpose of giving an individual any TFN information that the TFN recipient holds about that individual.

Client obligations to keep and retain tax records

Client obligations to keep and retain tax records



- The records you must keep also include records a client must keep and retain.
- The scope of the obligation extends to cover all aspects of the services provided, including the terms of engagement, advice given, decisions made and client communications.
- Importantly, the obligation does not replace or override the separate obligations imposed on clients to keep and retain records under tax laws.
- This means clients cannot rely on the Determination to absolve them of their own recordkeeping responsibilities.

Recordkeeping arrangements with clients

- You should discuss recordkeeping arrangements with your client to ensure they understand their obligations to keep and retain certain records under the taxation laws, and the consequences of not keeping adequate records.
- The letter of engagement between you and your client may cover arrangements for the keeping of client records and/or the making of copies of records that you need to follow.



Related recordkeeping considerations



- If records are held outside of Australia, ensure they comply with any requirements in that jurisdiction.
- We don't require, or recommend, you keep and retain originals or copies of any identification documents.
- We require records of proof of identity checks to be held for a minimum of 5 years.
- Ensure records of tax agent services provided comply with obligations under the Code and other privacy and confidentiality laws.
- Don't disclose information relating to a client, or former client, to a third party unless you've obtained their permission, or have a legal duty to do so.

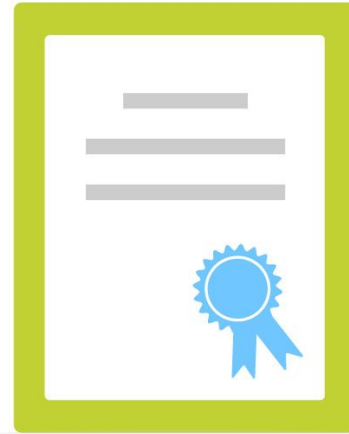
Quality management systems



Quality management systems

Section 40 of the Determination requires you to:

- establish and maintain a system of quality management, in relation to the provision of tax agent services you provide (or is provided on your behalf) which provides you with reasonable confidence you are complying with the Code
- document and enforce the policies and procedures of your system of quality management.



Internal controls



- ✓ Regular training on TASA obligations
- ✓ Conflict of interest information barriers
- ✓ Quality assurance processes and systems to review accuracy and standards
- ✓ Documented reporting lines and responsibilities
- ✓ Authorisation and risk management processes considering potential conflicts of interest
- ✓ File management system with access controls
- ✓ Independent internal control reviews.

Controls for small-to-medium firms



- ✓ Professional standards when providing tax agent services
- ✓ Letters of engagement
- ✓ Process for verifying client identity
- ✓ Storage of physical documents
- ✓ Recruitment, education and training
- ✓ Engagement of external consultants and contractors
- ✓ Register of actual or perceived conflicts of interest
- ✓ Quality assurance processes and systems to maintain supervision
- ✓ Regular periodic reviews of quality management system
- ✓ Managing cybersecurity risks

Controls for sole practitioners



- Sole tax practitioners may need to make arrangements for maintaining compliance with the TASA in the event they become incapacitated and can't provide services.
- You should ensure your quality management system provides you with reasonable confidence that you are complying with the TASA, including the Code and the Determination.
- Exercise your professional judgement in determining the appropriate controls in your circumstances by considering a range of factors, including the size, nature and clientele of your practice.

Example



- Koality is a medium-sized tax agent company employing registered tax agents and entities not registered with the TPB.
- The company maintains a sufficient number of individual registered tax agents.
- Koality last reviewed and updated its quality management policies and procedures 5 years ago.
- They do not provide in-house training to any staff on their obligations and expect employees who are registered tax agents to complete relevant professional education activities from external providers.
- Koality does not require employees to maintain a record of the activities and don't conduct internal audits or reviews to assess if these expectations are met.

Example outcome

In these circumstances, the TPB is unlikely to be satisfied that Koality is meeting their obligations, which requires them to:

- establish and maintain a system of quality management, in relation to the provision of tax agent services
- adequately document and enforce these policies and procedures.





Questions

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