INFORMATION FOR TAX PRACTITIONERS

OUTSOURCING AND OFFSHORING

Outsourcing

Outsourcing involves entering into an arrangement with a third party to perform specific services or functions.

Offshoring

Offshoring refers to an arrangement to transfer services or functions to a country other than Australia and may or may not involve outsourcing.

Outsourcing or offshoring arrangements – what to consider:

Some factors you may wish to consider when entering into an outsourcing or offshoring arrangement include, among other things:

- clearly defined duties, obligations and responsibilities of parties
- how information is stored, accessed, transferred and archived
- protections to prevent service access disruption
- details of liability and indemnity insurance arrangements
- security protocols to safeguard unauthorised access
- dispute resolution processes for client information
- competency of outsourced providers
- processes for evaluating, overseeing, amending or exiting the arrangement
- legislative and regulatory requirements for holding information offshore.

Further guidance

While not binding on all tax practitioners, further useful guidance on steps that may be taken when providing or using outsourced services may be found in the following regulators' guidance:

- Accounting Professional and Ethical Standards Board
- Australian Prudential Regulation Authority
- Australian Securities and Investments Commission
- Australian Securities Exchange
- Tax Practitioners Board accredited recognised professional associations

Code obligations

The Code of Professional Conduct (Code) contained in section 30-10 of the *Tax Agent Services Act 2009* (TASA) does not specifically deal with outsourcing and offshoring. However, there are several Code obligations that may be relevant when using these types of arrangements:

- **Code item 6** – Unless there is a legal duty to do so, you must not disclose client information to a third party without the client's consent.

  A third party is any entity other than the client and the tax practitioner and can include outsourced entities.
- **Code item 7** – You must ensure that tax agent services you provide, or that are provided on your behalf, are provided competently.

  This includes services provided by an unregistered external contractor, in Australia or abroad.
- **Code items 9 and 10** – You must take reasonable care in ascertaining a client's state of affairs and ensuring taxation laws are applied correctly.

  This will ensure relevant technical and professional standards are met and that a client receives competent professional services.
- **Code item 13** – You must maintain professional indemnity (PI) insurance that meets the Board's requirements.

  Review your PI insurance policy to assess whether appropriate coverage exists for outsourced services.

Consequences of inadequate outsourcing arrangements

You may face administrative sanctions, such as written cautions, orders or suspension or termination of registration, if your outsourcing arrangements breach the Code obligations under the TASA.

Inadequate arrangements may also lead to contraventions of other legislation, including the *Privacy Act 1988* (Cth) and *Corporations Act 2001* (Cth).

Further information

- TPB(PN) 2/2018 Outsourcing and offshoring of tax services – Code of Professional Conduct considerations

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