

TPB Information Sheet

TPB(I) 14/2012

Tertiary qualifications in a discipline other than accounting for tax agents

Disclaimer

This is a Tax Practitioners Board (TPB) Information sheet (TPB(I)). It is intended to be for information only. It provides an overview of the TPB's position in relation to the application of Item 202 in Schedule 2 of the Tax Agent Services Regulations 2022 (TASR). While it seeks to provide practical assistance and explanation, it does not exhaust, prescribe or limit the scope of the Board's powers provided in the *Tax Agent Services Act 2009* (TASA) and the TASR.

In addition, please note that the principles, explanation and examples in this TPB(I) do not constitute legal advice and do not create additional rights or legal obligations beyond those that are contained in the TASA, the TASR, or which may exist at law. Please refer to the TASA and the TASR for the precise content of the legislative requirements.

Document history

The TPB released this document as a draft Information sheet in the form of an Exposure draft on 4 November 2011. The TPB invited comments and submissions in relation to the information in it. The closing date for submissions was 19 December 2011. The TPB considered the submissions made and published the TPB(I) on 13 September 2012.

On 1 April 2022, the TPB updated this TPB(I) to replace references from the repealed Tax Agent Services Regulations 2009 to Tax Agent Services Regulations 2022.

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Tertiary qualifications in a discipline other than accounting for tax agents

Introduction

1. Item 202 in Schedule 2 of the Tax Agent Services Regulations 2022 (TASR) (Item 202) provides one of the 11 options for meeting the qualifications and experience requirements for registration, including renewal of registration, as a tax agent. This item permits applicants who have tertiary qualifications in a discipline other than accounting to be registered as tax agents, subject to meeting the other requirements of the item and other registration requirements, such as being a fit and proper person.
2. This Information sheet (TPB(I)) sets out the views of the Tax Practitioners Board (TPB) in relation to the application of Item 202. These views are applicable only in circumstances where a condition is to be imposed on registration under subsection 20-25(5) of the *Tax Agent Services Act 2009* (TASA).
3. This TPB(I) does **not** apply to applicants relying on Item 202 to obtain full, or 'unconditional', registration as a tax agent. In these cases, the TPB will assess the application having regard to the relevant requirements in the TASA and TASR.
4. In summary, there are three basic requirements of Item 202. Applicants must have:
 - i. a relevant degree or a post-graduate award in a discipline other than accounting
 - ii. if the TPB considers it relevant to the tax agent services to which the application relates, as many of the following Board approved courses as the TPB considers necessary:
 - o a course in basic accountancy principles
 - o a course in commercial law
 - o a course in Australian taxation law
 - iii. been engaged in one year of full-time relevant experience (or part time equivalent) in the last five years.
5. The purpose of this TPB(I) is to assist existing registered tax agents and new individual applicants to understand the TPB's approach to the second of these requirements.

Structure and summary of this TPB(I)

6. In this TPB(I) you will find the following information:
 - background and scope about becoming a registered tax agent (paragraphs 7 to 11)
 - the Board's power to impose conditions on registration (paragraphs 12 to 14)
 - the TPB's approach to Item 202(b) in Schedule 2 of the TASR (Item 202(b)) (paragraphs 15 to 29).

Background and scope about becoming a registered tax agent

7. To become a registered tax agent, an individual must meet certain eligibility criteria, including the qualifications and experience requirements prescribed in the TAsR.
9. Once registered, individual tax agents must again satisfy these qualifications and experience requirements at renewal of registration. Generally, this will be straightforward for agents who have already demonstrated their qualifications and experience in the past in order to become registered and have continued in practice. The 11 options for individuals to meet the prescribed qualifications and experience requirements are contained in Part 2 of Schedule 2 of the TAsR.
10. One of the 11 options is Item 202, which provides that:
 - (a) the individual has been awarded:
 - i. a degree or post-graduate award from an Australian tertiary institution in a discipline other than accounting that is relevant to the tax agent services to which the application relates, or
 - ii. a degree or award that is approved by the Board from an equivalent institution in a discipline other than accounting that is relevant to the tax agent services to which the application relates, and
 - (b) if the TPB considers it relevant to the tax agent services to which the application relates – the individual has also successfully completed as many of the following courses as the TPB considers necessary:
 - i. a course in basic accountancy principles that is approved by the Board
 - ii. a course in commercial law that is approved by the Board
 - iii. a course in Australian taxation law that is approved by the Board, and
 - (c) the individual has been engaged in one year of full-time relevant experience (or part time equivalent) in the last five years.
11. To meet the requirements of Item 202, all individuals are required to satisfy the requirements of Items 202(a) and 202(c). In relation to Item 202(b), the TPB's approach depends on whether the individual seeks to provide tax agent services only in relation to Part 2-10 of the *Income Tax Assessment Act 1997* (ITAA 1997) (relating to Capital Allowances) or other services.

TPB's power to impose conditions on registration

12. Under subsections 20-25(5) to (7) of the TASA, the TPB may impose one or more conditions on an individual's registration to limit the scope of services that the individual may provide to a particular type of tax agent service or a particular area of the taxation laws.

13. It may be appropriate for the TPB to impose a condition where an individual does not intend to provide the full suite of tax agent services.
14. Under subsection 20-25(7) of the TASA, the TPB must have regard to the individual's qualifications and relevant experience in determining whether any limitation should be placed on the individual applicant's registration.

TPB's approach to Item 202(b)

15. New applicants for a tax agent registration will fall into one of the following broad categories for the purposes of Item 202:
 - individuals who seek to provide tax agent services in relation to Part 2-10 of the *Income Tax Assessment Act 1997* (ITAA 1997) (relating to Capital Allowances)
 - other individuals.
16. The TPB may, over time, develop additional categories of new applicants for the purposes of paragraph 15, particularly when one of the categories of tax agents identified in Schedule 1, or another category that does not currently appear in Schedule 1, becomes significant enough to justify the development of specific Board approved courses.
17. The TPB's approach regarding the application of Item 202(b) recognises that there is a group of tax agents who have already obtained registration pursuant to Item 202. Some of these agents, and others registered under other eligibility items, have conditions imposed on their registration. Further, the TPB understands that a number of tax agents whose registration is subject to a condition may seek to renew their registration pursuant to Item 202.
18. The TPB has considered the various categories of tax agents who may seek to renew their registration under Item 202 (see Schedule 1). The TPB is of the view that although there are a number of different categories, only one of these categories is significant enough to justify the development of a specific Board approved course. This category relates to those individuals providing, or seeking to provide, tax agent services in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances). These individuals are often described by the TPB as quantity surveyors.
19. Accordingly, the TPB's view is that all new applicants who seek to provide tax agent services in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances) must have completed a specific course in Australian taxation law that is approved by the Board to meet the requirements of Item 202(b). More information about the TPB's approach to this group is set out in paragraphs 21 to 27.

20. All **other new applicants** will be subject to a principles-based approach where the TPB will consider the following factors when determining the requirement for any Board approved courses for the purposes of Item 202(b) (refer to paragraphs 328 to 30):
- the applicant's qualifications for the purpose of meeting the requirements of Item 202(a)
 - any other qualifications or courses completed by the applicant which are relevant to the tax agent services to which the application relates
 - any work experience undertaken by the applicant which is relevant to the tax agent services to which the application relates, and
 - any other information the TPB considers relevant to the tax agent services to which the application relates.

Individuals seeking to provide tax agent services only in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances)

21. The TPB's view is that new applicants seeking to provide tax agent services only in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances) must have completed a course in Australian taxation law that is approved by the Board to meet the requirements of Item 202(b). These applicants are often described by the TPB as quantity surveyors.
22. The TPB is of the view that a course in Australian taxation law that is approved by the Board for the purposes of paragraph 21 must cover at least the following areas of taxation law:
- Part 2-10 of the ITAA 1997
 - The TASA, including the Code of Professional Conduct.
23. In addition, it is the TPB's view that the appropriate level of knowledge for such a course should be at a Diploma level which is equivalent to a Level 5 as specified in the Australian Qualifications Framework (AQF).¹ This means that individuals will have specialised knowledge and skills for skilled/paraprofessional work and/or further learning.
24. The TPB is of the view that a hard-and-fast rule on the manner of delivery of the course is not necessary. Provided the manner adopted for the course delivery involves an expectation that students develop knowledge of the topics listed at paragraph 22 at the requisite level (see paragraph 23), it is immaterial whether they are undertaking the course in a face-to-face setting or via an online computer-based learning module or webinar, with an assessment at the end. The outcomes of the course should be discernible by reference to how the course is assessed.
25. It is the TPB's view that a course in Australian taxation law which covers the topics listed at paragraph 22 at the requisite depth and with an appropriate assessment should be at least one full day in duration.

¹ See Australian Qualifications Framework 2011, available at www.aqf.edu.au.

26. It is the TPB's view that individuals must have demonstrated their knowledge and skills in the course by some means of independent and objective assessment. Assessment may occur by a variety of modes including being conducted online, provided that suitable quality assurance mechanisms are in place to ensure the integrity of the examination process. For example, it is expected that a course could be run as an online, computer-based module or webinar that applicants could undertake and then complete a form of assessment at the end of the module or webinar.
27. Independent and objective assessment refers to assessment practices which are conducted under the supervision of an invigilator (independent exam supervisor). The TPB is of the view that invigilators must be examination officers of universities, TAFE or registered training organisation colleagues, ministers of religion, police officers, lecturers, teachers, school principals or deputy principals, justices of the peace, commissioners of declarations or other supervisors considered acceptable to the Board. The assessment should not be administered by a family member, friend or someone that has a close personal or professional relationship with the individual undertaking the assessment.

Other individuals

28. As indicated at paragraph 20, the TPB's view is that, applications from new applicants other than those seeking to provide tax agent services in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances) will be considered on a case-by-case basis, taking into account the following factors:
 - the applicant's qualifications for the purpose of meeting the requirements of Item 202(a)
 - any other qualifications or courses completed by the applicant which are relevant to the tax agent services to which the application relates
 - any work experience undertaken by the applicant which is relevant to the tax agent services to which the application relates, and
 - any other information the TPB considers relevant to the tax agent services to which the application relates.
29. Following consideration of these factors, the TPB will determine which, if any, of the Board approved courses referred to in Item 202(b) are required for the purpose of meeting the requirements of that provision.
30. This approach provides flexibility for the TPB and the applicant. It means that an applicant will need to demonstrate that they have completed sufficient educational qualifications or courses for the purpose of their particular application for registration as a tax agent. For the TPB, this approach allows it to consider additional categories of applicants in addition to those noted in Schedule 1.

Schedule 1

Categories of registered tax agents with conditions on registration

Category of registered tax agent
Quantity surveyors provide tax agent services in relation to Part 2-10 of the <i>Income Tax Assessment Act 1997</i> (relating to Capital Allowances)
Research and development provide tax agent services in relation to Part III, Division 3 of the <i>Income Tax Assessment Act 1936</i> (relating to research and development activities)
BAS services provide tax agent services in relation to various BAS provisions as defined in section 995-1 of <i>Income Tax Assessment Act 1997</i>
Superannuation provide tax agent services in relation to various superannuation laws
Fringe Benefits Tax provide tax agent services in relation to the <i>Fringe Benefits Tax Assessment Act 1986</i>
Indirect taxes provide tax agent services in relation to various indirect taxes
Salary packaging provide tax agent services in relation to salary packaging rules
Other²

² For a list of other conditions that the TPB has imposed on the registration of tax agents, refer to [Conditions of registration tax agents](#).