Australian Government

TAX PRACTITIONERS BOARD

AI and the Code: What every tax practitioner needs to know

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Welcome

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

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

What we will cover today

- ✓ What is AI
- ✓ Key considerations when using AI
  - ✓ General considerations
  - ✓ Code obligations
  - ✓ Privacy Act
- ✓ Example and case studies
- ✓ Where to find further information

What is Artificial Intelligence (AI)?

Poll 1

How much are you currently using AI in your practice?

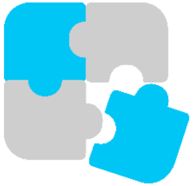
A. I use AI regularly in my practice

B. I use AI occasionally in my practice

C. I have tried AI but do not use it regularly

D. I have not used AI in my practice

Subsets of Artificial Intelligence



Machine Learning

Where computers learn how to tackle problems and discover solutions independently, often by using artificial neural networks.

Deep learning

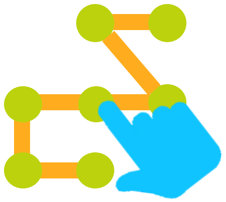
Where computers leverage ‘deep’ neural networks to perform complex learning tasks, often requiring large amounts of text and image data.

Generative AI

Describes computers focusing on generating new, realistic content from unstructured inputs including text, images or audio.

AI Capabilities in Tax Agent Services

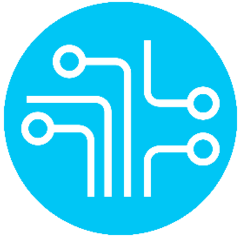
interpret information and generate insights or recommendations



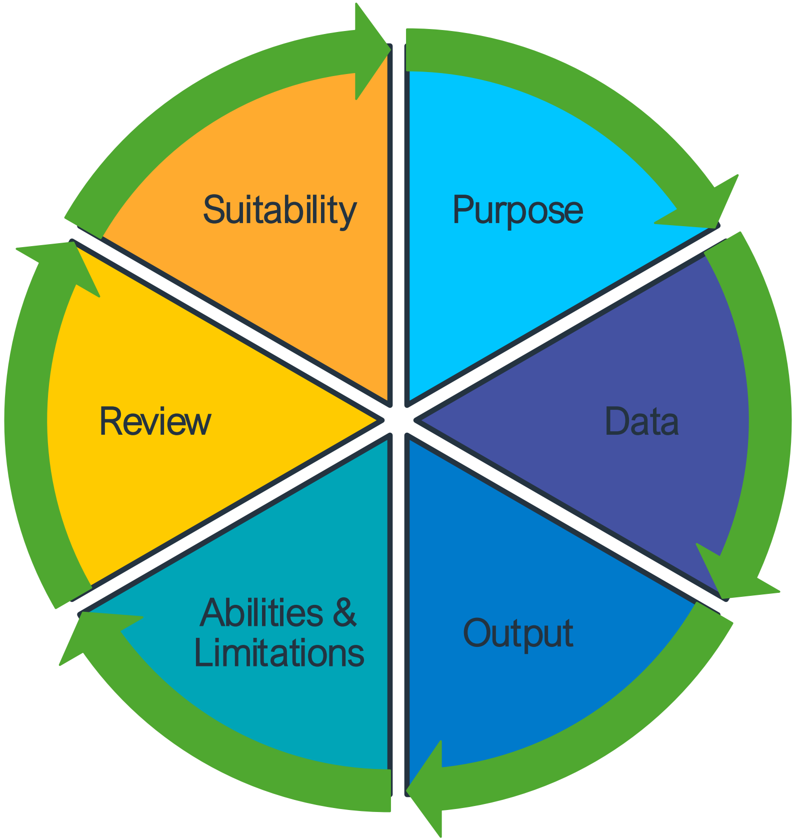
support research, simplify complex information and provide tailored guidance

identify anomalies, errors and misallocations in client accounts and records

streamline workflows through embedded AI features, form completion and autonomous actions



General Considerations



Example

- Kim, a registered tax practitioner, uses a generative AI tool to summarise new Australian taxation legislation for staff and clients.
- Before using the tool, she considers:
  - how information will be stored and used, whether prompts are retained or used for model training and confidentiality and privacy obligations.
- Before relying on the AI-generated summary, Kim:
  - Independently verifies legislative references, checks ATO guidance and other authorities, confirms information is relevant and applies her professional judgment.
- Kim recognises that generative AI can:
  - misinterpret Australian tax law, cite incorrect or non-existent provisions, omit important exceptions or qualifications and provide outdated information.

Poll 2

For those using AI in your practice, how would you rate the accuracy of the outputs you receive?

A. Very accurate

B. Mostly accurate

C. Mixed results

D. Often inaccurate

E. I don't use AI

Code Obligations

Competency

Code item 7 — You must ensure that a tax agent or BAS service that you provide, or that is provided on your behalf, is provided competently

Code item 8 — You must maintain knowledge and skills relevant to the tax agent or BAS services you provide

Code item 9 — You must take reasonable care in ascertaining a client's state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement you are making or a thing you are doing on behalf of the client

Code item 10 — You must take reasonable care to ensure the taxation laws are applied correctly

Section 30 Determination

You must keep records that correctly record the tax agent services you have provided, or that are provided on your behalf, to each of your clients, including former clients

Section 35 Determination

You must ensure each entity providing tax agent services on your behalf maintains knowledge and skills relevant to the tax agent services the entity is providing. You must ensure each entity providing tax agent services on your behalf is appropriately supervised, having regard to knowledge and skills of the entity, the tax agent services being provided by the entity, and your system of quality management

Section 40 Determination

You must establish and maintain a system of quality management, in relation to the provision of tax agent services by you, or on your behalf, which is designed to provide you with reasonable confidence that you are complying with the Code. You must document and enforce the policies and procedures of your system of quality management

What the obligations mean in practice when using AI

Understanding AI risks → **Review & Verify** → **Test & Challenge** → **Document review** → **Apply professional judgment**

Understanding AI risks
- Biases
- Inaccuracies
- Hallucinations

Review & Verify
- Check outputs before use
- Confirm accuracy

Test & Challenge
- Apply professional scepticism
- Assess validity

Document review
- Record verification steps
- Demonstrate compliance

Apply professional judgment
- AI assists
- Tax practitioner remains accountable

While AI is a valuable tool, it **does not** replace professional judgment or independent verification

Code item 9 - Taking reasonable care in ascertaining a client’s state of affairs

Whether a tax practitioner has taken reasonable care in a given situation will depend on all the circumstances, including but not limited to:

- the nature and scope of the tax agent services being provided
- whether the tax practitioner checks or reviews the output of the AI tool before purporting to rely on it
- whether AI tools have been used for tasks which should be independently verified, particularly when outside the tax practitioner's expertise.

Confidentiality

Code item 6

Unless you have a legal duty to do so, you must not disclose any information relating to a client's affairs to a third party without your client's permission

Client permission

- Signed consent
- Signed letter of engagement
- Other communication, such as 'fact find' and consent
- A general authority consenting to disclosure to third parties may also be acceptable

Tax practitioner due diligence when using AI tools

- Tax practitioners are responsible for exercising due diligence when using AI tools, including reviewing commercial and internally developed tools for data security and compliance with the *Privacy Act 1988* (Cth) ('Privacy Act')
- Privacy Act requirements relevant to AI outlined in paragraphs 30-31 of AI guidance statement
- Where client information includes tax file numbers (TFNs), additional obligations under *Privacy (Tax File number) Rule 2015* apply
- Tax practitioners should seek independent advice on the application of TFN rules, including implications for AI use
- Additional guidance on confidentiality, third parties, client permission, legal duties and outsourcing, is available in TPB guidance statements

Case Study 1

- Jack, a registered tax agent, engaged by client, Sam, on CGT consequences of selling an investment property.
- Sam had consented to the use of AI through a signed engagement letter outlining how information may be disclosed, stored and processed.
- Jack uses AI to research CGT provisions and prepare calculation. Jack, independently reviews and verifies the information, corrects inaccuracies, confirms legislative references are correct, and ensures the law is correctly applied to Sam’s circumstances.
- He also maintains records of AI prompts, outputs, verification steps and amendments made.

Case Study 2

- Jack did not obtain Sam's consent to use AI tools, and Sam was unaware that AI would be used in connection with the tax agent services provided.
- Due to tax time pressures, Jack delegated the research task to Mike, a junior staff member who had not received training on the appropriate use of AI tools.
- Jack also did not adequately supervise Mike's work, and Mike was unaware of Jack's policy and procedures relating to the use of AI.
- Mike entered Sam's information into an AI-tool, accepted the AI-generated research without reviewing or verifying it, and forwarded it directly to Jack.
- Without reviewing the AI-generated output or reviewing its accuracy, Jack sent the advice to the client.

Privacy Act

- The Privacy Act sets out a number of Australian Privacy Principles (APPs) which govern the use of, storage and disclosure of personal information.
- APPs may have a direct impact on the requirement to obtain consent from clients.
- Tax practitioners should consider whether the provisions of the Privacy Act apply to them, including in the use of AI, and seek their own advice where appropriate.
- Information about obligations under the Privacy Act by the Privacy Commissioner are accessible from the Office of Australian Information Commissioner's website at www.oaic.gov.au.

Further Information

Questions

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