

# INFORMATION FOR CLIENTS

## BE AWARE OF YOUR OBLIGATIONS TO THE ATO AND YOUR BAS AGENT'S OBLIGATIONS TO THE TAX PRACTITIONERS BOARD.

### Overview

As a taxpayer, it is important you:

- are aware of your obligations to the Australian Taxation Office (ATO)
- understand your BAS agent has obligations to the ATO and the Tax Practitioners Board (TPB).

### Your obligations

- Be truthful with the information you provide your BAS agent.
- Keep the required records and provide them to your BAS agent, if required on a timely basis.
- Be co-operative with your BAS agent's requests, and meet their due dates.

### If you do not meet your obligations

- The ATO may impose administrative penalties (fines).
- Interest charges may be applied.
- In some cases, criminal prosecutions may be sought.
- The ATO may initiate debt recovery.

#### Further information

For further information, see [tpb.gov.au](http://tpb.gov.au) and [ato.gov.au](http://ato.gov.au)

### Your BAS agent's obligations

- Always act honestly and with integrity.
- Act lawfully in your best interests and advise you of any conflicts of interest.
- Take reasonable care to ascertain your state of affairs.
- Take reasonable care to apply the BAS provisions correctly.
- Provide their BAS services competently.
- Not knowingly obstruct the administration of the taxation laws.
- Advise you of your rights and obligations under the taxation laws on a timely basis and return funds due to you.
- Not make false or misleading statements to the ATO.

### If your BAS agent does not meet their obligations

- Their registration can be suspended or terminated, meaning they can't practice.
- They could receive written cautions or orders from the TPB – for example, undertaking education or working under the supervision of another registered tax practitioner.
- Fines may be imposed by the Federal Court.

### What you should expect from your BAS agent



They will ask you questions to better understand your situation.



They may ask you to substantiate and provide evidence of any claims you make under a BAS provision.



They will not act illegally, even if it is in your best interests.



They will advise you of your obligations under the BAS provisions.

## SCENARIO 1

### Situation

A sole trader client operating a plumbing business asks their BAS agent to claim the GST on a \$55,000 new vehicle. The vehicle purchased is a campervan. The BAS agent claims the GST credit of \$5000 for the campervan without:

- asking any questions about the type of vehicle that was purchased
- checking evidence that the expense is for business purposes.

In this situation, the BAS agent has a responsibility to determine if an expense is a private or business expense (and therefore whether the GST can be claimed) at the time of lodging the BAS.

### Consequences for the client

An ATO audit found the expense was not deductible and GST credits were not available because it was a private expense

and there was no evidence to support the GST credits being claimed. The ATO imposed penalties on the client for making false statements in their BAS return.

### Consequences for the BAS agent

The TPB found that the BAS agent failed to:

- take adequate steps to ensure the BAS was accurate
- take reasonable care to apply tax laws correctly to ensure GST credits are claimed for genuine business expenses
- sight the necessary evidence.

Because of these failures, the TPB:

- suspended the BAS agent's registration for 3 months, which meant they could not continue to operate their business
- ordered the BAS agent to complete and pass a course of education in preparation and lodgement of Business Activity Statements.

## SCENARIO 2

### Situation

A BAS agent is engaged by a new client to prepare and lodge their quarterly BAS. The client advises they have appropriate record keeping systems in place and that all their suppliers are registered for, and are charging, GST. The BAS agent takes this on face value and goes ahead and prepares the client's BAS.

In this situation, because the client is new, the BAS agent should make relevant enquiries of the client. The BAS agent should also undertake appropriate follow-up action to assure themselves that:

- the client has appropriate record keeping systems in place; and
- they can rely on the information provided by the client to prepare and lodge their quarterly BAS.

### Consequences for the client

An ATO audit resulted in:

- the client's GST credits being reduced
- penalties and interest charges being applied.

### Consequences for the BAS agent

The TPB found that the BAS agent failed to:

- take reasonable care to apply tax laws correctly and ascertain the client's state of affairs
- exercise professional knowledge, skills and judgment and make further enquiries
- sight the necessary evidence.

Because of these failures, the TPB:

- issued a written caution; and
- ordered the BAS agent to complete and pass a course of education in preparation and lodgement of BAS returns.