

# Exposure Draft

## Explanatory Paper

### TPB(EP) D43/2021

## Continuing professional education requirements for registered tax and BAS agents

This Tax Practitioner Board (TPB) draft explanatory paper (TPB(EP)) provides a detailed explanation of the TPB's continuing professional education (CPE) requirements for registered tax and BAS agents from 1 July 2021. Further, it explains the TPB's interpretation of the provisions in the *Tax Agent Services Act 2009* (TASA) relating to the CPE requirement, translating these provisions into practical principles that can be applied by the profession.

#### Comments invited

The TPB invites comments and submissions in relation to this draft TPB(EP). The closing date for submissions is **11 March 2021**. The TPB will then consider any submissions before settling its position, undertaking any further consultation required and finalising the explanatory paper.

Written submissions can be made via email at [tpbsubmissions@tpb.gov.au](mailto:tpbsubmissions@tpb.gov.au) or by mail to:

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SYDNEY NSW 2001

#### Disclaimer

This document is in draft form, and when finalised will be intended as information only. While it seeks to provide practical assistance and explanation, it does not exhaust, prescribe or limit the scope of the TPB's powers provided in the TASA.

The information in this exposure draft does not constitute legal advice. It is also only at a preliminary stage. The TPB's conclusions and views may change as a result of comments received or as other circumstances change.

### **Currency of details of the CPE requirement**

The TPB intends to review the details of its CPE requirements periodically, with a view to making any necessary refinements for the future. The TPB reserves the right to amend its CPE requirements at any point, including before any formal review, if it becomes necessary to do so.

### **Key terms**

The Key terms section of this TPB(EP) lists a number of key terms and the meaning they have in this TPB(EP).

### **Document history**

On 19 February 2020, the TPB released a public consultation paper following a review of its CPE requirements. The closing date for submissions was 15 March 2020.

The TPB considered the comments and submissions received and releases this draft TPB(EP) for consultation. Key changes to the TPB's CPE policy requirements proposed in this draft TPB(EP) include the following:

- an increase in the total CPE hours requirement to a minimum of 120 hours over three years for all registered tax practitioners
- an increase in the minimum CPE hours requirement per year to 20 hours for all registered tax practitioners
- amending the CPE period to include a CPE year based on a calendar year or financial year to allow registered tax practitioners to select the CPE period most relevant to their circumstances
- a 10% educative health and wellbeing activity cap for the CPE period
- reducing the record keeping requirement from six years to five years
- a requirement that registered tax practitioners provide further detail in CPE logs in relation to unstructured CPE activities (such as relevant technical or professional reading) or where the relevance of a CPE activity cannot be determined.

Issue date: 11 February 2021

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## Overview

1. This Tax Practitioners Board (TPB) explanatory paper (TPB(EP)) sets out the TPB's continuing professional education (CPE) requirements.<sup>1</sup> Further, it provides guidance to registered tax practitioners on meeting their obligations under the *Tax Agent Services Act 2009* (TASA), including the Code of Professional Conduct (Code).
2. The TPB considers that CPE is the process of maintaining and improving a professional's knowledge and skills. CPE is a professional tool that assists registered tax practitioners to adapt as the law, society, client needs, and their practice changes. CPE is also a means by which registered tax practitioners maintain and build upon their primary qualifications, used to gain initial registration under the TASA.<sup>2</sup> It is a requirement for all individual registered tax practitioners to have, upon renewal of registration, completed CPE that meets the TPB's requirements.

## Objective

3. Businesses increasingly operate in a globalised setting subject to continuous change. The TASA acknowledges this reality in the following ways:
  - a. The object of the TASA is to ensure that tax agent services<sup>3</sup> are provided to the public in accordance with appropriate standards of professional and ethical conduct.<sup>4</sup> Therefore, the TASA has a consumer protection imperative. The completion of relevant CPE will assist registered tax practitioners to ensure that their knowledge and skills are maintained for the benefit of their clients and the broader community.
  - b. Paragraph 20-5(1)(d) of the TASA imposes a mandatory obligation on all registered tax practitioners to have completed CPE that meets the TPB's requirements to renew their registration.
  - c. Section 30-10 of the TASA, containing the Code, regulates the personal and professional conduct of registered tax practitioners, and includes obligations relating to maintaining knowledge and skills and taking reasonable care.<sup>5</sup>

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<sup>1</sup> CPE is also commonly referred to by professional associations as continuing professional development. The term CPE is used in this TPB(EP) as this is how the concept of professional development is referred to in the Tax Agent Services Regulations 2009 (TASR) and the Explanatory Memorandum to the *Tax Agent Services Bill 2008*.

<sup>2</sup> The TPB has released several documents in relation to its policies on education and the prescribed requirements for registration under the TASR. See the Related documents section of this TPB(EP).

<sup>3</sup> The definition of tax agent service includes a BAS service. See the key terms section of this TPB(EP).

<sup>4</sup> Section 2-5 of the TASA.

<sup>5</sup> See paragraph 6(b) of this TPB(EP) for further information on the specific items of the Code relating to CPE.

4. The TASA reinforces the view that it is essential for registered tax practitioners to maintain their knowledge and skills throughout their professional life. This includes completing more significant CPE during periods of legislative change and to account for changes to a registered tax practitioner's individual circumstances. The principles contained in this TPB(EP) will therefore assist registered tax practitioners to meet their obligations under the TASA as described above.

## Legislative background

5. This TPB(EP) provides guidance on the application of the renewal of registration requirement contained in paragraph 20-5(1)(d) of the TASA and elements of the Code set out in section 30-10 of the TASA.
6. All registered tax practitioners are required to comply with:
  - a. paragraph 20-5(1)(d) of the TASA which requires registered tax practitioners to, upon renewal of registration, demonstrate that they have completed CPE that meets the TPB's requirements; and

- b. section 30-10 of the TASA which relevantly requires that:

*'(8) You must maintain knowledge and skills relevant to the \*tax agent services that you provide...<sup>6</sup>*

*(10) You must take reasonable care to ensure that \*taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client...*

*(12) You must advise your client of the client's rights and obligations under the \*taxation laws that are materially related to the \*tax agent services you provide'.*

7. Paragraphs 3.45 and 3.46 of the Explanatory Memorandum to the *Tax Agent Services Bill 2008* relevantly state that:

*'... Keeping up-to-date with developments in the relevant taxation laws and tax administration **may** require agents to undergo a certain minimum number of hours of tax related **continuing professional education** per year as determined by the Board.*

*3.46 The Board may issue a guideline listing the training that is available in the market (including face-to-face training courses, distance learning and online courses) as being sufficient for continuing professional education purposes for this principle of the Code. For this purpose, any person or organisation can make a recommendation to the Board to have their training courses listed. The courses are not restricted only to those offered by recognised professional associations, recognised BAS agent associations, tax agents or BAS agents.<sup>7</sup>*

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<sup>6</sup> Use of a '\*' in the TASA indicates that the term is defined in the dictionary (Division 90) of the TASA.

<sup>7</sup> Paragraphs 3.45 and 3.46 of the Explanatory Memorandum to the *Tax Agent Services Bill 2008*.

8. Further, the Explanatory Memorandum to the *Tax Laws Amendment (2013 Measures No. 3) Bill 2013* provides that the amendments make it a registration requirement for individuals seeking to renew their registration to have met the TPB's CPE requirements. This ensures that registered individuals maintain their skills and knowledge for the benefit of their clients.<sup>8</sup>

## CPE principles

9. The legislative principles and provisions described above recognise that registered tax practitioners must complete relevant CPE to renew their registration as a registered tax agent or BAS agent, and also to assist in complying with their obligations under the Code.
10. CPE refreshes and updates the core body of knowledge that is essential to the services provided by each registered tax practitioner, building upon and maintaining the relevance of a registered tax practitioner's educational background.
11. The following principles underpin the TPB's CPE requirements:
  - a. It is a registration renewal requirement for registered tax practitioners to have completed CPE that meets the TPB's requirements.<sup>9</sup>
  - b. CPE contributes to the maintenance of contemporary and relevant knowledge and skills required of registered tax practitioners to comply with the Code.<sup>10</sup>
  - c. Registered tax practitioners provide a broad spectrum of tax agent services. The following categories of registered tax practitioners generally reflect the different scope of services provided by tax practitioners registered under the TASA:
    - i. **Tax agents:** Registered tax agents are legally able to provide tax agent services, which includes BAS services, for a fee or other reward.<sup>11</sup> The term 'tax agent service' is given a wide definition by the TASA.<sup>12</sup>

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<sup>8</sup> Paragraph 3.116 of the Explanatory Memorandum to the *Tax Laws Amendment (2013 Measures No. 3) Bill 2013*.

<sup>9</sup> See paragraph 20-5(1)(d) of the TASA.

<sup>10</sup> Section 30-5 of the TASA provides that the Code applies to all registered tax and BAS agents. If, following an investigation under Subdivision 60-E of the TASA, the TPB is satisfied that an agent has failed to comply with the Code, it may impose one or more administrative sanctions under section 30-15 of the TASA. Sanctions the TPB can impose include a written caution, a period of suspension, termination of the agent's registration or an order to take specified actions. The severity of a sanction will depend on the TPB's consideration of the nature and extent of the breach and the circumstances of each case. The TPB has issued an Explanatory Paper in relation to the Code of Professional Conduct. For further information please refer to [TPB\(EP\) 01/2010 Code of Professional Conduct](#).

<sup>11</sup> The term 'tax agent' is defined in the Key terms section of this TPB(EP).

<sup>12</sup> The term 'tax agent service' is defined in subsection 90-5(1) of the TASA and is referred to in the Key terms section of this TPB(EP).

- ii. **BAS agents:** Registered BAS agents are legally able to provide BAS services for a fee or other reward.<sup>13</sup> The term 'BAS service' is defined by the TASA.<sup>14</sup>
- iii. **Conditional agents:** The term 'conditional agent' refers to a registered tax agent or BAS agent who has a condition imposed on their registration, in respect of the subject area in which the agent may provide tax agent services or BAS services. Two significant groups of conditional tax agents are quantity surveyors and research and development consultants.
- iv. Some tax practitioners who fall into the category 'conditional agent' may have a deeper expertise in a subject matter, or may provide tax agent services or BAS services in a particular area, to a high level. For the purpose of this TPB(EP) these tax practitioners will be considered a conditional agent, because notwithstanding their particular knowledge and skills the practitioner still has a condition imposed on their registration which limits the tax agent services or BAS services they can provide. Therefore it is appropriate that they be treated as a conditional agent for the purposes of this TPB(EP).

There will also be some tax practitioners who only provide tax agent services or BAS services in a particular or restricted area of the taxation laws. It is appropriate in these circumstances that these tax practitioners also be treated as a 'conditional agent' for the purpose of this TPB(EP). This is because of their limited area of knowledge and skills and because there may be less relevant CPE available to tax practitioners in this category.

- d. The Courts have previously indicated in a number of cases that continued registration requires that registered tax practitioners be competent. The maintenance of competence by a registered tax practitioner requires continuing awareness, understanding and up-to-date knowledge of relevant technical, legal and business developments. A registered tax practitioner who has maintained their knowledge and skills is better equipped to advise their clients and apply the taxation laws to individual circumstances and therefore to comply with the Code.<sup>15</sup> In *Stasos v Tax Agents' Board* [1990] FCA 379, Hill J stated at paragraph 49:

*'once registered, however, the tax agent must keep up to date with the massive changes to the income tax law, no easy task in the present time, so that he can properly advise and represent his clients. That is a responsibility which comes with the privileged position in which he is placed.'*<sup>16</sup>

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<sup>13</sup> The term 'BAS agent' is defined in the Key terms section of this TPB(EP).

<sup>14</sup> The term 'BAS service' is defined in subsection 90-10(1) of the TASA and is referred to in the Key terms section of this TPB(EP).

<sup>15</sup> See in particular subsections 30-10(8), 30-10(10) and 30-10(12) of the TASA.

<sup>16</sup> See further *Comino v Tax Agents Board of NSW* [2009] AATA 766 at paragraph 34 and *Re Su and Tax Agents' Board of South Australia* 82 ATC 4284.

- e. The TPB acknowledges that CPE is required to be completed by members of all recognised tax and BAS agent associations.<sup>17</sup> The TPB also notes that the Tax Agent Services Regulations 2009 (TASR) specifies the following requirements.
- i. Item 103(a) in Schedule 1 of the TASR requires that a recognised BAS agent association have professional and ethical standards including terms to the effect that:
- ‘voting members must undertake **at least 15 hours of continuing professional education** each year’.*
- ii. Item 203(a) in Schedule 1 of the TASR requires that a recognised tax agent association have professional and ethical standards including terms to the effect that:
- ‘voting members must undertake an **appropriate number** of hours of continuing professional education each year, having regard to the circumstances and requirements of the members’.*
- f. Recognising the wide scope of services provided by tax agents and the maturity of the CPE activities available to this category of registered tax practitioner, the TPB expects that **tax agents** should complete a minimum of 120 hours of relevant CPE over three years.
- g. The TPB acknowledges that while the scope of services provided by BAS agents is narrower than those provided by tax agents, it has expanded over time as has the maturity of the CPE activities available to BAS agents. Therefore, the TPB expects that the minimum level of relevant CPE that should be completed by **BAS agents** is also 120 hours over three years.<sup>18</sup> The TPB will review the details of its CPE requirements from time to time, with a view to making any necessary refinements for the future.
- h. Under the TASA a tax practitioner may be registered as a **conditional agent**. The TPB recognises that this category of registered tax practitioner may not provide a broad range of tax agent services or BAS services. The TPB expects that this category of registered tax practitioner complete a minimum of 45 hours of relevant CPE over three years, or as specified in [Schedule 1](#) of this TPB(EP).<sup>19</sup>

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<sup>17</sup> Refer further to paragraph 39 of this TPB(EP).

<sup>18</sup> See the Key terms section of this TPB(EP).

<sup>19</sup> See paragraph 28 of this TPB(EP) for more information on the CPE requirements for certain categories of conditional agents.

## What does this mean for tax and BAS agents?

12. This TPB(EP) provides guidance on the application of the TASA in relation to the CPE requirements. Registered tax practitioners unfamiliar with professional regulation will benefit most from this guidance.
13. The TPB anticipates that its CPE requirements will also instigate and drive the future development of CPE activities by various associations and organisations for the registered tax practitioner profession. The TPB does not intend to provide regular CPE activities. However, the TPB may conduct webinars, road-shows or other activities from time to time which may qualify as relevant CPE.
14. For clarity, it is noted that at this time the TPB does not propose to accredit or approve CPE activities. It is the responsibility of registered tax practitioners to exercise their professional judgment in selecting relevant CPE activities to be completed, having regard to their particular circumstances and the tax agent or BAS services provided by them.

## What does this mean for consumers?

15. The TPB expects that its CPE requirements will assist in maintaining, and where necessary, raising standards within the registered tax practitioner profession and help promote consumer protection. When engaging a tax or BAS agent to provide tax agent services or BAS services, the TPB encourages the public to ask whether the agent is registered with the TPB. Using a registered tax or BAS agent should ensure that the agent maintains appropriate standards of professional and ethical conduct. It may also mean that the taxpayer can take advantage of safe harbour provisions. These provisions are administered by the Australian Taxation Office (ATO), and in certain circumstances may operate to avoid or lessen certain administrative penalties that may otherwise be imposed by the ATO.

## CPE requirements and examples

### CPE for tax agents

16. Registered tax agents should complete a minimum of 120 hours of CPE over three years. CPE completed should be relevant to the tax agent services provided by the registered tax agent.
17. The TPB recognises that for various reasons the number of hours of CPE completed by a tax agent in a given year may vary. To allow for flexibility in these situations, tax agents are able to complete their CPE over a three-year period.
18. This means that a tax agent must ensure that at the end of their CPE period (three years) a minimum of 120 hours of CPE has been completed. The TPB considers that not less than 20 hours of relevant CPE should be completed in any given year of a registered tax agent's CPE period.

19. A tax agent's CPE period will generally begin on the date the tax agent is registered and ends on the date the tax agent's registration expires in respect of that registration (generally three years). In addition, the TPB will accept a CPE period beginning either on 1 January in the calendar year or on 1 July in the financial year, following the date the tax agent is registered providing a record of the CPE activities is maintained in accordance with the requirements set out in paragraph 48.
20. If a tax agent's CPE period is for a period other than three years, the tax agent should complete CPE on a pro-rata basis.<sup>20</sup>

**Example 1**

In 2021, John, a registered tax agent, only completes 20 hours of CPE due to parenting leave in the first half of the year. To account for his shortfall in CPE hours, John completes 40 hours of CPE in 2022 and 60 hours of CPE in 2023.

As John has completed 120 hours of CPE over his CPE period (maintaining a minimum of 20 hours CPE each year), the TPB considers that he has completed the minimum level of CPE.

## CPE for BAS agents

21. Registered BAS agents should complete a minimum of 120 hours of CPE over three years. CPE completed should be relevant to the BAS services provided by the registered BAS agent.
22. The TPB recognises that for various reasons the number of hours of CPE completed by a BAS agent in a given year may vary. To allow for flexibility in these situations, BAS agents are able to complete their CPE over a three-year period.
23. This means that a BAS agent must ensure that at the end of their CPE period (three years) a minimum of 120 hours of CPE has been completed. The TPB considers that not less than 20 hours of relevant CPE should be completed in any given year of a registered BAS agent's CPE period.
24. A BAS agent's CPE period will generally begin on the date the BAS agent is registered and ends on the date the BAS agent's registration expires in respect of that registration (generally three years). In addition, the TPB will accept a CPE year beginning either on 1 January in the calendar year or on 1 July in the financial year, following the date the BAS agent is registered providing a record of the CPE activities is maintained in accordance with the requirements set out in paragraph 48.
25. If a BAS agent's CPE period is for a period other than three years, the BAS agent should complete CPE on a pro-rata basis.<sup>21</sup>

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<sup>20</sup> Members of a recognised tax agent association should refer to paragraph 40 of this TPB(EP).

<sup>21</sup> Members of a recognised tax or BAS agent association should refer to paragraph 40 of this TPB(EP).

## CPE for conditional agents

26. Subject to paragraph 28 below, a conditional agent<sup>22</sup> should complete a minimum of 45 hours of CPE over three years. CPE completed should be relevant to the tax agent services (or BAS services) provided by the conditional agent.
27. The TPB recognises that for various reasons the number of hours of CPE completed by a conditional agent in a given year may vary. To allow for flexibility in these situations, conditional agents are able to complete their CPE over a three-year period.
28. This means that a conditional agent must ensure that at the end of their CPE period (three years) a minimum of 45 hours of CPE has been completed. The TPB considers that not less than five hours of relevant CPE should be completed in any given year of a conditional agent's CPE period.
29. A conditional agent's CPE period will generally begin on the date the conditional agent is registered and ends on the date the conditional agent's registration expires in respect of that registration (generally three years). In addition, the TPB will accept a CPE year beginning either on 1 January in the calendar year or on 1 July in the financial year, following the date the conditional agent is registered providing a record of the CPE activities is maintained in accordance with the requirements set out in paragraph 48.
30. If a conditional agent's CPE period is for a period other than three years, the conditional agent should complete CPE on a pro-rata basis.<sup>23</sup>

### **Example 2**

Vinh is a tax agent who is registered under the TASA as a conditional agent. Vinh may only provide a service that is a tax agent service under section 90-5 of the TASA in respect of the various taxation laws relating to superannuation.

Vinh should complete 45 hours of CPE over his CPE period relevant to the type of tax agent services he provides. Vinh is not required to complete CPE in relation to other types of tax agent services which he does not provide.

## CPE for certain categories of conditional agents

31. The TPB recognises that there may be certain categories of conditional agents for which the expected minimum level of CPE, set out above, is not appropriate. These categories are set out in [Schedule 1](#) of this TPB(EP). The TPB will update Schedule 1 if it considers it appropriate to do so, when considering other categories of conditional agents for which the expected minimum level of CPE may not be appropriate.

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<sup>22</sup> See the Key terms section of this TPB(EP).

<sup>23</sup> Members of a recognised tax or BAS agent association should refer to paragraph 40 of this TPB(EP).

**Example 3**

Mandy is a quantity surveyor who registers under the TASA as a conditional agent. Mandy may only provide tax agent services that relate to Part 2-10 of the *Income Tax Assessment Act 1997* (ITAA 1997) concerning capital allowances and the rules about deductibility of capital expenditure.

Mandy should complete six hours of CPE over her CPE period (two hours per year) relevant to the type of tax agent services she provides (as per Schedule 1 of this TPB(EP)). Mandy is not required to complete CPE in relation to other types of tax agent services which she does not provide.

## What is relevant CPE?

32. The TPB considers relevant CPE to be the maintenance of contemporary and relevant knowledge and skills.
33. CPE completed by registered tax practitioners should be relevant to the tax agent or BAS services they provide and the development of their relevant personal knowledge and skills. The TPB considers that CPE will be relevant where the registered tax practitioner can demonstrate a sufficient nexus between the activity and the tax agent or BAS services provided by them. Further, CPE activities should be provided by persons or organisations with suitable qualifications and/or practical experience in the relevant subject area.
34. Subject to paragraph 33 below, the TPB does not intend to be prescriptive regarding particular topics for CPE activities which should be completed. Registered tax practitioners should exercise their professional judgment in selecting relevant CPE activities to be completed.

**Example 4**

Vince is a registered BAS agent. Vince attends a training session provided by Swift Software. Vince uses the Deluxe Swift software package to assist him in providing BAS services to clients.

The TPB considers that while this training session is indirectly relevant to the BAS services Vince provides it will be considered relevant CPE because effective and accurate use of the software package impacts on the skills Vince needs to competently provide BAS services to clients.

**Example 5**

Klay is a registered tax agent. Klay uses web-based applications to support him in providing tax agent services to his clients. Klay completes a cyber-security awareness training package.

The TPB considers this training package as relevant CPE because effective and prudent use of the web-based applications impacts on the skills Klay needs to competently provide tax agent services to clients.

35. The completion of a primary course which has been used for the purpose of gaining initial registration as a tax agent or BAS agent, or renewing such registration, will not generally constitute a CPE activity. However, a subsequent or higher level of course relevant to the tax agent or BAS services provided may be acceptable.
36. The TPB may from time-to-time, recommend specific topics for CPE activities in certain circumstances. For example, the TPB may ask for registered tax practitioners to complete CPE activity in the TASA, including the Code, particularly where the registered tax practitioner has not completed a course covering this topic as part of their educational qualification requirements used to gain initial registration.
37. During periods of legislative change or where changes occur to a registered tax practitioner's professional practice, registered tax practitioners should complete sufficient CPE to meet their knowledge and skill requirements. It is essential for registered tax practitioners to maintain their knowledge and skills in order to provide competent and contemporaneous services to clients.

**Example 6**

Pauline is a registered tax agent with a condition imposed on her registration. Pauline may only provide tax agent services relating to deductions for research and development (R&D) activities under Part III Division 3 of the *Income Tax Assessment Act 1936* (ITAA 1936).

Pauline is aware that the legislation recently enacted redesigns the current R&D Tax Concession system. Pauline undertakes specific and in-depth training in this area to ensure she becomes competent in the new regime.

The training Pauline completes is more than the minimum level of CPE set by the TPB because of its complexity and scale.

38. All registered tax practitioners are required to comply with the TASA, including the Code. Therefore, the TPB expects that all registered tax practitioners should have knowledge of the TASA, including the Code, as part of their general competency requirement. The TPB expects that this knowledge will be able to be enhanced through CPE.<sup>24</sup>

**Example 7**

Craig is a registered tax agent. Craig completes a unit of study through the Smart State TAFE that deals with the provisions of the TASA, including the Code, and its practical application for tax agents and their practice.

This unit of study may count as CPE because Craig is enhancing his knowledge of the regulatory regime in which he operates. Having knowledge of a registered tax practitioner's obligations under the TASA will benefit Craig in providing tax agent services to the public.

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<sup>24</sup> See [TPB\(I\) 10/2011 Required knowledge of the Tax Agent Services Act 2009 including the Code of Professional Conduct](#) for further information.

## CPE activities

39. Examples of CPE activities include:

- (a) seminars, workshops, webinars, courses and lectures
- (b) structured conferences and discussion groups (including those completed by telephone or video conference)
- (c) tertiary courses provided by universities, registered training organisations (RTOs), other registered higher education institutions or other approved course providers (including distance learning)<sup>25</sup>
- (d) other educational activities, including podcasts, webcasts and blogs, provided by an appropriate organisation
- (e) research, writing and presentation by the registered tax practitioner of technical publications or structured training
- (f) peer review of research and writing submitted for publication or presentation in structured training
- (g) computer/internet-assisted courses, audiotape or videotape packages
- (h) attendance at structured in-house training on tax related subjects by persons or organisations with suitable qualifications and/or practical experience in the subject area covered
- (i) attendance at appropriate ATO seminars and presentations
- (j) relevant CPE activities provided to members and non-members by a recognised tax or BAS agent association
- (k) a unit of study or other CPE activity on the TASA, including the Code.<sup>26</sup>

### Example 8

Annalisa is a registered tax agent who works for a major accounting firm. Annalisa is required by her employer to attend CPE provided by a partner of the firm, who specialises in superannuation. The partner presents a lecture on the taxation of complying superannuation funds, approved deposit funds, pooled superannuation trusts and providers of retirement savings accounts governed by Part 3-30, Division 295 of the *Income Tax Assessment Act 1997* (ITAA 1997), followed by an interactive discussion and consideration of a complex hypothetical case study.

As the CPE activity is structured and provided by a suitably qualified person, Annalisa may count this session as CPE.

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<sup>25</sup> The TPB considers that the completion of a primary course, required for registration as a tax agent or BAS agent will not generally constitute a CPE activity. However, a subsequent or higher level of course relevant to the tax agent services or BAS services provided may be acceptable.

<sup>26</sup> See [TPB\(I\) 10/2011 Required knowledge of the Tax Agent Services Act 2009 including the Code of Professional Conduct](#) for further information.

40. The TPB expects that not more than 25 per cent of CPE over a registered tax practitioner's CPE period should be completed through relevant technical or professional reading. Relevant technical or professional reading may include video and audio resources.
41. In addition, the TPB will allow registered tax practitioners to undertake educative health and wellbeing activities, providing the activities constitute no more than 10 per cent of CPE over a registered tax practitioner's CPE period. These activities could include attending webinars about how to manage stress and self-care, including in relation to the management of staff health and wellbeing.

#### **Example 9**

Derek is a registered tax agent.

For the first year of his CPE period, Derek attended a two-hour seminar during Mental Health Month on the topic of managing for wellbeing. In the second year of his CPE period, Derek attended a four-hour conference covering topics such as how to manage trauma in the workplace and implementing flexible work and health arrangements in the workplace. In the third year, Derek attended a two-hour webinar on stress management techniques.

As Derek has undertaken no more than 10 per cent of his CPE in educative health and wellbeing activities, he can count the eight-hours towards his CPE for the relevant CPE period.

42. The provision of a tax agent or BAS service will not, of itself, constitute a CPE activity. This includes any research or information gathering undertaken in the course of providing a tax agent or BAS service.

## Recognition of other CPE

43. The TPB acknowledges the CPE requirements imposed on members of recognised tax and BAS agent associations<sup>27</sup> as a condition of their membership. Where a registered tax practitioner is a member of a recognised tax or BAS agent association, the TPB will accept the registered tax practitioner's compliance with their association's CPE requirements, subject to the following:
- the CPE activities completed must be relevant to the tax agent services or BAS services provided
  - the CPE activities completed must be provided by persons or organisations with suitable qualifications and/or practical experience in the subject area
  - the CPE completed meets the minimum level of CPE as specified in principles 11(f), 11(g) and 11(h) of the CPE principles section of this TPB(EP).

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<sup>27</sup> See the Key terms section of this TPB(EP).

### Example 10

Taj is a member of Tax World, a recognised tax agent association. As a member of Tax World, Taj is required to complete 120 hours of CPE over three years. Taj's practice primarily deals with individual and simple partnership and company income tax matters. Taj attends a CPE seminar provided by Tax World in relation to its potential merger with an international accounting association.

As this seminar is not relevant to the tax agent services provided by Taj, the seminar would not be considered to be relevant CPE by the TPB.

44. The TPB recognises that members of a recognised tax and BAS agent association may have a different CPE period as compared to the three-year registration period under the TPB's registration requirements.
45. The TPB expects that at the end of a registered tax practitioner's CPE period, a registered tax practitioner who is relying on the CPE completed for a recognised tax or BAS agent association should be able to demonstrate that they complied with their CPE obligations with the recognised association. In doing so, they will also comply with their TPB CPE obligations.
46. In any case, the TPB considers that not less than 20 hours of relevant CPE by tax agents and BAS agents, and not less than five hours of relevant CPE by conditional agents, should be completed in any given year.

## Recording CPE activities

47. The TPB considers that an important aspect of maintaining knowledge and skills involves recording and reflecting on CPE completed. Effective record keeping allows a registered tax practitioner to ensure that an appropriate amount and type of CPE is completed in relation to the areas in which a registered tax practitioner practises.
48. Registered tax practitioners must ensure they maintain a contemporaneous record and evidence of the CPE activities that they complete. This means that records must be made as soon as possible and practicable after the CPE activity is completed and should include details of the activities and the hours completed. In addition, where the CPE activity is unstructured (such as relevant technical or professional reading) or where evidence of completion of CPE does not provide sufficient detail concerning the CPE activity, the record should contain sufficient details as to the relevance of the CPE activity to the tax agent or BAS services provided.
49. The TPB has developed and made available on its website an appropriate [CPE log](#) for registered tax practitioners to use. The TPB does not expect that an additional CPE log or record be maintained where a record is already maintained to satisfy the registered tax practitioner's membership requirements of a recognised tax or BAS agent association.
50. Records should be kept for a period of five years from the end of the registered tax practitioner's CPE period, unless the registered tax practitioner is a member of a recognised tax or BAS agent association in which case records should be kept in accordance with the requirements of the relevant tax or BAS agent association.

51. The TPB will require confirmation of CPE completed upon renewal of registration as a tax agent or BAS agent. This verification may be in the form of registered tax agents or BAS agents having to provide a record of their CPE activities (such as a CPE log) with their renewal application form, or such other form of verification (that is, declaration) that the TPB considers appropriate.
52. In addition, the TPB may from time to time request evidence or confirmation of CPE completed by registered tax practitioners during their period of registration.<sup>28</sup> This is to allow for annual notification of CPE completed, if the TPB so requires this.

**Example 11**

Seamus attends a seminar provided by BAS World, a recognised BAS agent association, in relation to changes to fuel tax credits. Seamus records the particulars of the course (name, date and time) and course provider on his electronic CPE log.

As Seamus receives a brochure of the seminar and email confirmation of his enrolment, he keeps these records as evidence of CPE completed. The TPB considers that Seamus has taken the appropriate steps to record his CPE.

Alternatively, if Seamus enrolled in the seminar but did not attend it, Seamus would not be able to count the seminar as a completed CPE activity.

## Extenuating circumstances

53. The TPB acknowledges that there may be extenuating circumstances where a registered tax practitioner is unable to complete the minimum level of CPE in their CPE period, or in any given year of their CPE period. Registered tax practitioners should exercise their professional judgment in this regard and should keep appropriate contemporaneous records of such circumstances.
54. Examples of situations where it might not be possible for a registered tax practitioner to complete the minimum level of CPE include:
- (a) illness and/or disability
  - (b) family and/or caring commitments
  - (c) financial or other hardship
  - (d) natural disaster
  - (e) other relevant circumstances.
55. In these types of circumstances, the TPB will consider appropriate relief from the minimum level of CPE for registered tax practitioners, provided the registered tax practitioner can demonstrate that they have attempted to use the flexibility of their CPE period to manage any extenuating circumstances to comply with the TPB's CPE requirements.

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<sup>28</sup> The TPB acknowledges that a registered tax practitioner may be audited by a tax or BAS agent association of which they are a member. The TPB may consider the outcome of such an audit as evidence of CPE completed.

### **Example 12**

Alicia is a BAS agent running a sole practice in the Brisbane suburbs. In early 2021, Alicia is involved in a car accident and sustains serious injury. Alicia is unable to work for six months and manages to complete only 10 hours of CPE for that year.

Alicia completes 60 hours of CPE in the second year and 50 hours of CPE in the third year.

In this case, the TPB will accept that Alicia has completed CPE that meets the TPB's requirements, despite Alicia not having completed the minimum 20 hours of CPE in the first year.

56. The TPB notes that while the minimum amount of CPE may not be met in certain circumstances, registered tax practitioners should be mindful that their obligation under the Code to maintain knowledge and skills relevant to the tax agent services provided cannot be abrogated. Therefore, registered tax practitioners may use the flexibility of their CPE period (three years) to manage any extenuating circumstances. Registered tax practitioners should also be mindful of the prescribed relevant experience requirements for renewal of registration.

### **Example 13**

Heather is a tax agent residing in Coober Pedy, South Australia. She provides tax agent services predominantly to individuals who work in opal mines. Heather rarely has time to travel to Adelaide to attend face-to-face training and only makes a modest income. However, Heather is careful to maintain her knowledge and skills by completing online learning packages and participating in online discussion groups as well monitoring updates on the ATO website and completing technical reading.

During a typical CPE period Heather completes four face-to-face seminars (total of 20 hours), participates in structured online discussion groups (total of 60 hours), completes three internet assisted courses (total of 15 hours) and undertakes 25 hours of technical reading.

The TPB considers that Heather has completed the minimum level of CPE.

## **Compliance with the Code of Professional Conduct**

57. Completion of at least the minimum level of relevant CPE outlined in this TPB(EP) will be considered by the TPB as one of the factors which would evidence compliance by a registered tax practitioner with relevant items of the Code, contained in section 30-10 of the TASA.
58. It is noted that if the TPB is satisfied, after conducting an investigation under Subdivision 60-E of the TASA, that a registered tax practitioner has failed to comply with the Code, the TPB may, amongst other things, give the agent an order under section 30-20 of the TASA to take specified actions. This may include completing a course of education or training.

59. For further information in relation to compliance with the TASA, including the Code, visit 'Maintain your registration' page on the tax or BAS agents section of the TPB website.

## Compliance with CPE upon renewal of registration and commencement arrangements

60. The TPB will make necessary arrangements to ensure a smooth transition to the new CPE requirements contained in this TPB(EP).
61. The new CPE policy will take effect for all registered tax and BAS agents from 1 July 2021.
62. In particular, the following commencement arrangements will apply in respect of renewal applications:
- a. For a renewal period commencing before 1 July 2021, CPE is to be calculated on a pro-rata basis from 1 July 2021 to the end of the registered tax or BAS agent's first CPE year.
  - b. For a renewal period commencing on or after 1 July 2021, CPE is to be calculated on a pro-rata basis from 1 July 2021 to the commencement of the registered tax or BAS agent's first full CPE year.

### **Example 14**

Danny is registered as a tax agent as at 30 June 2021. Danny's registration is due to expire on 30 October 2021.

Danny lodges his application for renewal of registration on 30 September 2021. To renew his registration, Danny will need to satisfy the TPB that for the period 1 July 2021 to 30 September 2021, he meets the requirements for renewal of registration, including the TPB's CPE requirements set out in this TPB(EP).

Assuming Danny's application for renewal of registration is granted and he is registered for a further three years, Danny will need to show that he has completed a minimum 120 hours of relevant CPE (with a minimum of 20 hours in any given CPE year) at his next renewal.

63. For new registrations commencing on or after 1 July 2021, CPE is to be calculated on a pro-rata basis from the date of registration to the start of the tax or BAS agent's first full CPE year where the tax or BAS agent's CPE period is based on a calendar or financial year.

## Key terms

<b>BAS agent</b>	This term refers to an entity registered by the TPB as a BAS agent under section 20-25 of the <i>Tax Agent Services Act 2009</i> . To be registered as a BAS agent the entity must, amongst other things, meet the requirements relating to qualifications and experience listed in Part 1 of Schedule 2 to the Tax Agent Services Regulations 2009.
<b>BAS service</b>	This term has the meaning given to it in section 90-10 of the <i>Tax Agent Services Act 2009</i> . A BAS service is a 'tax agent service', see 'tax agent service' in this section.
<b>Code of Professional Conduct (Code)</b>	The Code is contained in section 30-10 of the <i>Tax Agent Services Act 2009</i> . It sets out standards of professional and ethical conduct with which registered tax practitioners must comply.
<b>Conditional agent</b>	This term refers to a registered tax agent or BAS agent who has a condition imposed on their registration under subsection 20-25(5) of the <i>Tax Agent Services Act 2009</i> . The condition will relate to the subject area in which the agent provides tax agent services or BAS services.
<b>CPE</b>	Continuing professional education (CPE) is also commonly referred to by professional associations as continuing professional development.
<b>CPE period</b>	A registered tax agent or BAS agent's CPE period is generally three years. A registered tax agent or BAS agent's CPE period generally begins on the date the agent is registered and ends on the date the agent's registration expires in respect of that registration. Tax or BAS agents can also select a calendar or financial year basis for their three-year CPE period.
<b>Recognised BAS agent association</b>	A recognised BAS agent association is an organisation that applies to the TPB for recognition and the TPB decides to recognise the association in accordance with Division 1 of Part 1A of the Tax Agent Services Regulations 2009.
<b>Recognised tax agent association</b>	A recognised tax agent association is an organisation that applies to the TPB for recognition and the TPB decides to recognise the association in accordance with Division 2 of Part 1A of the Tax Agent Services Regulations 2009.
<b>Registered tax practitioner</b>	This term refers to both tax agents and BAS agents registered under the <i>Tax Agent Services Act 2009</i> .
<b>Tax agent</b>	This term refers to an entity registered by the TPB as a tax agent under section 20-25 of the <i>Tax Agent Services Act 2009</i> . To be registered as an individual tax agent the entity must, amongst other things, meet the requirements relating to qualifications and experience listed in Part 2 of Schedule 2 to the Tax Agent Services Regulations 2009.
<b>Tax agent service</b>	This term has the meaning given to it in section 90-5 of the <i>Tax Agent Services Act 2009</i> . The definition of tax agent service includes BAS services.

## Related documents

[Exposure draft TPB\(EP\) D44/2021 Continuing professional education policy requirements for registered tax \(financial\) advisers](#)

## Schedule 1

### CPE for certain categories of conditional agents <sup>29</sup>

Category of registered tax practitioner	Amount of CPE
<b>Quantity surveyors</b> Provide tax agent services in relation to Part 2-10 of the <i>Income Tax Assessment Act 1997</i> (ITAA 1997) (relating to capital allowances)	Six hours of relevant CPE over three years
<b>Fuel Tax Credits</b> Provide tax agent services in relation to the fuel tax law as defined in section 995-1 of the ITAA 1997	Six hours of relevant CPE over three years

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<sup>29</sup> Current as at 3 September 2020.