

Exposure Draft Explanatory Paper TPB(EP) D44/2021

Continuing professional education policy requirements for registered tax (financial) advisers

This Tax Practitioners Board (TPB) draft explanatory paper (TPB(EP)) provides a detailed explanation of the TPB's continuing professional education (CPE) requirements for registered tax (financial) advisers 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 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 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 discussion 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 for tax (financial) advisers. Further, it provides guidance to registered tax (financial) advisers on meeting their obligations under the *Tax Agent Services Act 2009* (TASA), including the Code of Professional Conduct (Code).¹
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 tax (financial) advisers to adapt as the law, society, client needs, and their practice changes. CPE is also a means by which registered tax (financial) advisers maintain and build upon their primary qualifications, used to gain initial registration under the TASA. Further, it is a requirement for all individual registered tax (financial) advisers to have, upon renewal of registration, completed CPE that meets the TPB's requirements.
3. The TPB recognises that CPE is also commonly referred to by professional associations as continuing professional development (CPD). The term CPE is used in this TPB(EP) as this is how the concept of professional development is referred to in the TASA, the Tax Agent Services Regulations 2009 (TASR) and the Explanatory Memorandum to the *Tax Agent Services Bill 2008*.²

Objective

4. 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 services³ are provided to the public in accordance with appropriate standards of professional and ethical conduct.⁴ Therefore, the TASA has a consumer protection imperative. The completion of relevant CPE will assist registered tax (financial) advisers 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 (financial) advisers to have completed CPE that meets the TPB's requirements to renew their registration.⁵
 - (c) Section 30-10 of the TASA, containing the Code, regulates the personal and professional conduct of registered tax (financial) advisers, and includes obligations relating to maintaining knowledge and skills and taking reasonable care.⁶

¹ It is noted that relevant amendments to the TASA relating to the regulation of tax (financial) advisers by the TPB did not commence until 1 July 2014. Accordingly, all references to the TASA in this TPB(EP) should be taken to read the TASA as applying from 1 July 2014.

² See also paragraphs 35 to 38 of this TPB(EP) for further information in relation to recognition of other CPE / CPD.

³ The definition of tax agent service includes a tax (financial) advice service. See the key terms section of this TPB(EP).

⁴ Section 2-5 of the TASA.

⁵ See also paragraph 7(a) of this TPB(EP).

⁶ See paragraph 7(b) of this TPB(EP) for further information on the items of the Code.

5. The TASA reinforces the view that it is essential for registered tax (financial) advisers 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 (financial) adviser's individual circumstances. The principles contained in this TPB(EP) will therefore assist registered tax (financial) advisers to meet their obligations under the TASA as described above.

Legislative background

6. 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.
7. All registered tax (financial) advisers are required to comply with:
 - (a) paragraph 20-5(1)(d) of the TASA which requires registered tax (financial) advisers to, upon renewal of registration, demonstrate that they have completed CPE that meets the TPB's requirements
 - (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...'⁷*

*(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'.*
8. 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.⁸

⁷ Use of a '*' in the TASA indicates that the term is defined in the dictionary (Division 90) of the TASA.

⁸ Paragraphs 3.45 and 3.46 of the Explanatory Memorandum to the *Tax Agent Services Bill 2008*.

9. 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.⁹

CPE principles

10. The legislative principles and provisions described above recognise that registered tax (financial) advisers must complete relevant CPE to renew their registration, and also to assist in complying with their obligations under the Code.
11. CPE refreshes and updates the core body of knowledge that is essential to the services provided by each registered tax (financial) adviser, building upon and maintaining the relevance of a registered tax (financial) adviser's educational background.
12. The following principles underpin the TPB's CPE requirements:
- (a) It is a registration renewal requirement for registered tax (financial) advisers to have completed CPE that meets the TPB's requirements.¹⁰
 - (b) CPE contributes to the maintenance of contemporary and relevant knowledge and skills required of registered tax (financial) advisers to comply with the Code.¹¹
 - (c) The Courts have previously indicated in a number of cases that continued registration requires that registered individuals be competent. The maintenance of competence by a registered tax (financial) adviser requires continuing awareness, understanding and up-to-date knowledge of relevant technical, legal and business developments. A registered tax (financial) adviser 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.¹² 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.'*¹³

⁹ Paragraph 3.116 of the Explanatory Memorandum to the *Tax Laws Amendment (2013 Measures No. 3) Bill 2013*.

¹⁰ See paragraph 20-5(1)(d) of the TASA.

¹¹ Section 30-5 of the TASA provides that the Code applies to all registered tax agents, BAS agents and tax (financial) advisers. If, following an investigation under Subdivision 60-E of the TASA, the TPB is satisfied that a registered tax agent, BAS agent or tax (financial) adviser 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 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.

¹² See in particular subsections 30-10(8), 30-10(10) and 30-10(12) of the TASA.

¹³ 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.

- (d) Under the TASA a tax (financial) adviser may be registered as a **conditional adviser**,¹⁴ that is a tax (financial) adviser who has a condition imposed on their registration in respect of the subject area in which the tax (financial) adviser may provide tax (financial) advice services. The TPB recognises that this category of tax (financial) adviser may not provide a broad range of tax (financial) advice services. The TPB is of the view that this category of tax (financial) adviser should complete a minimum of 45 hours of relevant CPE over three years.

What does this mean for tax (financial) advisers?

13. This TPB(EP) provides guidance on the application of the TASA, in relation to the CPE requirements. Registered tax (financial) advisers unfamiliar with professional regulation will benefit most from this guidance.
14. 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 (financial) adviser 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.
15. 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 (financial) advisers to exercise their professional judgment in selecting relevant CPE activities to be completed, having regard to their particular circumstances and the tax (financial) advice services provided by them.

What does this mean for consumers?

16. The TPB expects that its CPE requirements will assist in maintaining, and where necessary, raising standards within the registered tax (financial) adviser profession and help promote consumer protection. When engaging a tax (financial) adviser to provide tax (financial) advice services, the TPB encourages the public to ask whether the adviser is registered with the TPB. Using a registered tax (financial) adviser should ensure that the adviser maintains appropriate standards of professional and ethical conduct.

¹⁴ See the Key terms section of this TPB(EP).

CPE requirements and examples

CPE for tax (financial) advisers

17. Registered tax (financial) advisers should complete a minimum of 120 hours of CPE over three years. CPE completed should be relevant to the tax (financial) advice services provided by the registered tax (financial) adviser.
18. The TPB recognises that for various reasons the number of hours of CPE completed by a tax (financial) adviser in a given year may vary. To allow for flexibility in these situations, tax (financial) advisers are able to complete their CPE over a three-year period, and generally in line with the adviser's registration period.
19. This means that a tax (financial) adviser 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 (financial) adviser's CPE period.
20. A tax (financial) adviser's CPE period will generally begin on the date the tax (financial) adviser is registered and ends on the date the tax (financial) adviser'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 tax (financial) is registered providing a record of the CPE activities is maintained in accordance with the requirements set out in paragraph 43.
21. If a tax (financial) adviser's registration is for a period other than three years, the tax (financial) adviser should complete CPE on a pro-rata basis.
22. The TPB acknowledges that there will be many tax (financial) advisers who are members of professional associations that have their own CPE requirements. Further, these CPE requirements may be administered on a points-based system where certain activities attract two or more points. In these circumstances, the TPB is of the view that one hour of relevant CPE completed will be considered one hour of CPE for the purposes of the TPB's CPE policy, irrespective of how many points the same CPE activity attracts for any other purpose.

Example 1

Allison is a registered tax (financial) adviser. Her registration is from 1 October 2021 to 30 September 2024.

During the first year of her registration (from 1 October 2021 to 30 September 2022), Allison completes 20 hours of relevant CPE. In her second year (from 1 October 2022 to 30 September 2023), Allison completes 40 hours of relevant CPE.

In her third year (from 1 October 2023 to 30 September 2024), Allison will be required to complete at least 60 hours of relevant CPE to meet the TPB's CPE renewal of registration requirement.

CPE for conditional advisers

23. A conditional adviser should complete a minimum of 45 hours of CPE over three years. CPE completed should be relevant to the tax (financial) advice services provided by the conditional adviser.
24. The TPB recognises that for various reasons the number of hours of CPE completed by a conditional adviser in a given year may vary. To allow for flexibility in these situations, conditional advisers are able to complete their CPE over a three-year period.
25. This means that a conditional adviser must ensure that at the end of their CPE period (three years) a minimum of 45 hours of CPE has been completed. A conditional adviser should complete no less than five hours of relevant CPE in any given year of their CPE period.
26. A conditional adviser's CPE period will generally begin on the date the conditional adviser is registered and end on the date the conditional adviser'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 adviser is registered providing a record of the CPE activities is maintained in accordance with the requirements set out in paragraph 43.
27. If a conditional adviser's registration period is for a period other than three years, the conditional adviser should complete CPE on a pro-rata basis.

Example 2

Blake is a tax (financial) adviser who is registered under the TASA as a conditional adviser. Blake may only provide a service that is a tax (financial) advice service under section 90-15 of the TASA in respect of the various taxation laws relating to, for example, insurance.

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

CPE for certain categories of conditional advisers

28. The TPB recognises that there may be certain categories of conditional advisers for which the minimum level of CPE, set out above, is not appropriate. In these cases, the TPB may consider a reduced minimum hours requirement for the relevant category of conditional advisers.

What is relevant CPE?

29. The TPB considers relevant CPE to be the maintenance of contemporary and relevant knowledge and skills.
30. CPE completed by registered tax (financial) advisers should be relevant to the tax (financial) advice 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 (financial) adviser can demonstrate a sufficient nexus between the activity and the tax (financial) advice 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.
31. The TPB does not intend to be prescriptive regarding particular topics for CPE activities which should be completed. Registered tax (financial) advisers should exercise their professional judgment in selecting relevant CPE activities to be completed.¹⁵

Example 3

Mitch is a registered tax (financial) adviser. Mitch attends a training session provided by Slick Software. Mitch uses the Deluxe Slick software package to assist him in providing tax (financial) advice services to clients.

The TPB considers that while this training session is indirectly relevant to the tax (financial) advice services Mitch provides, it will be considered as relevant CPE because effective and accurate use of the software package impacts on the skills Mitch needs to competently provide tax (financial) advice services to clients.

Example 4

Nick is a registered tax (financial) adviser. Nick attends a two-hour seminar regarding a new financial product that he intends to sell as part of the tax (financial) advice services he provides. The seminar includes a 15 minute discussion regarding the various taxation implications concerning the financial product.

As the financial product is relevant to the tax (financial) advice services that Nick provides, Nick can claim his attendance at the seminar as relevant CPE. The TPB considers that Nick can claim the full two hours as relevant CPE, despite the seminar covering topics other than taxation.

¹⁵ See paragraph 32 of this TPB(EP) for examples of relevant CPE activities.

Example 5

Klay is a registered tax (financial) adviser. Klay uses web-based applications to support him in providing tax (financial) advice 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 (financial) advice services to clients.

32. The completion of a primary course of education which has been used for the purpose of gaining initial registration as a tax (financial) adviser, or renewing such registration, will not generally constitute a CPE activity. However, a subsequent or higher level of course, or additional study undertaken to satisfy the education standard set by The Financial Adviser Standards and Ethics Authority (FASEA), relevant to the tax (financial) advice services provided may be acceptable.
33. During periods of legislative change or where changes occur to a registered tax (financial) adviser's professional practice, registered advisers should complete sufficient CPE to meet their knowledge and skill requirements. It is essential for registered tax (financial) advisers to maintain their knowledge and skills in order to provide competent and contemporaneous services to clients.

Example 6

Clarke is a registered tax (financial) adviser. Clarke 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 (financial) advisers and their practice.

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

CPE activities

34. Examples of relevant 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)¹⁶
- (d) other educational activities, including podcasts, webcasts and blogs, provided by an appropriate organisation
- (e) research, writing and presentation by the registered tax (financial) adviser 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, audio or video 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 TPB and/or ATO seminars and presentations
- (j) relevant CPE activities provided to members and non-members by a recognised professional association
- (k) a unit of study or other CPE activity on the TASA, including the Code.

Example 7

Amy is a registered tax (financial) adviser who works for a major financial services firm. Amy is required by her employer to attend CPE provided by a director of the firm, who specialises in superannuation. The director presents a session 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, Amy may count this session as CPE.

35. The TPB expects that not more than 25 per cent of CPE over a registered tax (financial) adviser's CPE period should be completed through relevant technical or professional reading. Relevant technical or professional reading may include video and audio resources.

¹⁶ See also paragraph 30 of this TPB(EP).

36. In addition, the TPB will allow a registered tax (financial) adviser to undertake educative health and wellbeing activities, providing the activities constitute no more than 10 per cent of CPE over a registered tax (financial) adviser'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.
37. The provision of a tax (financial) advice service will not, of itself, constitute a CPE activity. This includes any research or information gathering undertaken in the course of providing a tax (financial) advice service.

Recognition of other CPE

38. The TPB acknowledges the CPE or CPD¹⁷ requirements imposed on registered tax (financial) advisers who are members of a relevant recognised professional association¹⁸ (recognised tax (financial) adviser association or recognised tax agent association) as a condition of their membership. The TPB also acknowledges the CPD requirements set by FASEA for financial advisers. Where a registered tax (financial) adviser is a member of a recognised tax (financial) adviser association or recognised tax agent association, or where the registered tax (financial) adviser is required to meet FASEA's CPD requirements, the TPB will accept the registered tax (financial) adviser's compliance with their association's CPE/CPD requirements, or FASEA's CPD requirements, subject to the following:
- the activities completed must be relevant to the tax (financial) advice services provided
 - the activities completed must be provided by persons or organisations with suitable qualifications and/or practical experience in the subject area
 - the CPE/CPD completed meets the minimum level of CPE as specified in paragraphs 17 to 25 of this TPB(EP).

Example 9

Tim is a member of a recognised tax (financial) adviser association. As a member, Tim is required to complete 120 hours of CPE over three years. Tim's practice primarily deals with superannuation and life insurance matters.

Tim attends a CPE seminar provided by the association in relation to its potential merger with an international accounting association.

As this seminar is not relevant to the tax (financial) advice services provided by Tim, the seminar would not be considered to be relevant CPE by the TPB.

¹⁷ 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 Act 2009*, the *Tax Agent Services Regulations 2009* and the Explanatory Memorandum to the *Tax Agent Services Bill 2008*.

¹⁸ See the Key terms section of this TPB(EP).

39. The TPB recognises that members of a recognised professional association may have a different CPE period as compared to the three-year period under the TPB's CPE requirements. Further, registered tax (financial) advisers may have a different CPE period for the purposes of compliance with relevant provisions of the *Corporations Act 2001*.
40. The TPB expects that at the end of a registered tax (financial) adviser's CPE period, a registered adviser who is relying on the CPE completed for a recognised professional association, or for compliance with the *Corporations Act 2001*, should be able to demonstrate that they have complied with their CPE obligations with the recognised professional association and/or the *Corporations Act 2001*. In doing so, they will also comply with their TPB CPE obligations.
41. In any case, the TPB considers that not less than 20 hours of relevant CPE by tax (financial) advisers, and not less than five hours of relevant CPE by conditional advisers, should be completed in any given year.

Recording CPE activities

42. 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 (financial) adviser to ensure that an appropriate amount and type of CPE is completed in relation to the areas in which a registered tax (financial) adviser practises.
43. Registered tax (financial) advisers should 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 (financial) advice services provided.
44. The TPB has developed and made available on its website an appropriate [CPE log](#) for registered tax (financial) advisers 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 (financial) adviser's membership requirements of a recognised professional association, or where an appropriate record is maintained to satisfy relevant obligations under the *Corporations Act 2001*.
45. 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 (financial) adviser is a member of a recognised professional association in which case records should be kept in accordance with the requirements of the relevant association.
46. The TPB will require confirmation of CPE completed upon renewal of registration as a tax (financial) adviser. This verification may be in the form of registered tax (financial) advisers 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.

47. In addition, the TPB may from time to time request evidence or confirmation of CPE completed by registered tax (financial) advisers during their period of registration.¹⁹

Example 10

Rashard attends a seminar provided by a recognised professional association in relation to changes to aspects of the capital gains tax regime. Rashard records the particulars of the course (name, date and time) and course provider on his electronic CPE log.

As Rashard 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 Rashard has taken the appropriate steps to record his CPE.

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

Extenuating circumstances

48. The TPB acknowledges that there may be extenuating circumstances where a registered tax (financial) adviser is unable to complete the minimum level of CPE in their CPE period, or in any given year of their CPE period. Registered tax (financial) advisers should exercise their professional judgment in this regard and should keep appropriate contemporaneous records of such circumstances.
49. Examples of situations where it might not be possible for a registered tax (financial) adviser 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.

¹⁹ The TPB acknowledges that a registered tax (financial) adviser may be audited by a recognised professional association of which they are a member. The TPB may consider the outcome of such an audit as evidence of CPE completed.

50. In these types of circumstances, the TPB will consider appropriate relief from the minimum level of CPE for registered tax (financial) advisers, provided the registered tax (financial) adviser 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.

Example 11

Mya is a registered tax (financial) adviser running a sole practice in the Brisbane suburbs. In early 2020, Mya is involved in a car accident and sustains serious injury. Mya is unable to work for six months and manages to complete only three hours of CPE for that year.

Mya completes 30 hours of CPE in the second year and 27 hours of CPE in the third year.

In this case, the TPB will have appropriate regard to Mya's personal circumstances and accept that Mya has completed CPE that meets the TPB's requirements, despite Mya not having completed the minimum 20 hours of CPE in the first year.

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

Example 12

Hank is a registered tax (financial) adviser residing in Coober Pedy, South Australia. He provides tax (financial) advice services predominantly to individuals who work in opal mines.

Hank rarely has time to travel to Adelaide to attend face-to-face training and only makes a modest income. However, Hank is careful to maintain his 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 Hank completes four face-to-face seminars (total of 20 hours), participates in structured online discussion groups (total of 70 hours), completes one internet assisted course (total of 10 hours) and undertakes 20 hours of technical reading.

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

Compliance with the Code of Professional Conduct

52. 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 (financial) adviser with relevant items of the Code, contained in section 30-10 of the TASA.
53. It is noted that if the TPB is satisfied, after conducting an investigation under Subdivision 60-E of the TASA, that a registered tax (financial) adviser has failed to comply with the Code, the TPB may, among other things, give the tax (financial) adviser an order under section 30-20 of the TASA to take specified actions. This may include completing a course of education or training.
54. For further information in relation to compliance with the TASA, including the Code, visit [Maintain your registration](#) page on the tax (financial) advisers section of the TPB website.

Compliance with CPE upon renewal of registration and commencement arrangements

55. The TPB will make necessary arrangements to ensure a smooth transition to the new CPE requirements contained in this TPB(EP).
56. The new CPE policy will take effect for all registered tax (financial) advisers from 1 July 2021.
57. 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 (financial) adviser'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 (financial) adviser's first full CPE year.

Example 15

Bec is registered as a tax (financial) adviser as at 30 June 2021. Bec's registration is due to expire on 30 October 2021.

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

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

58. 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 registered tax (financial) adviser's first full CPE year where the tax financial adviser's CPE period is based on a calendar or financial year.

Key terms

BAS agent	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, among other things, meet the requirements relating to qualifications and experience listed in Part 1 of Schedule 2 to the Tax Agent Services Regulations 2009.
BAS service	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.
Code of Professional Conduct (Code)	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 agents, BAS agents and tax (financial) advisers must comply.
Conditional adviser	This term refers to a registered tax (financial) adviser 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 tax (financial) adviser provides tax (financial) advice services.
CPE	Continuing professional education (CPE) is also commonly referred to by professional associations as continuing professional development (CPD).
CPE period	A registered tax financial adviser's CPE period is generally three years. A registered tax financial adviser's CPE period begins on the date the adviser is registered and ends on the date the adviser's registration expires in respect of that registration.
Recognised professional association	A recognised professional association is an organisation that applies to the TPB for recognition and the TPB decides to recognise the association (as a recognised tax agent association, recognised BAS agent association and/or recognised tax (financial) adviser association) under the Tax Agent Services Regulations 2009.

Related documents

Explanatory papers

[Exposure draft TPB\(EP\) D43/2021: Continuing professional education policy requirements for registered tax and BAS agents](#)