

# Guide for completing the annual declaration form for recognised professional associations

## Purpose of this guide

This guide has been prepared to assist recognised professional associations ('RPAs') of the Tax Practitioners Board ('TPB') to complete the TPB's annual declaration ('AD') form for their relevant recognition status.

There are three types of RPAs:

- Recognised tax agent association ('RTAA');
- Recognised BAS agent association ('RBAA'); and
- Recognised tax (financial) adviser association ('RTFAA').

## What is the AD process?

The AD process is an annual process for RPAs to declare and assure the TPB that they continue to satisfy the ongoing eligibility requirements in [Schedule 1 to the Tax Agent Services Regulations 2009 \('TASR'\)](#).

On the request of the TPB, RPAs are required to complete an AD form for each TPB recognition status that they hold.

Once the TPB has received the completed and duly signed AD form, a Committee of the TPB, acting under delegated authority of the TPB, considers the RPA's full submission and determines whether the RPA continues to satisfy the ongoing eligibility requirements in Schedule 1 to the TASR.

## What are the ongoing eligibility requirements for RPAs?

[Schedule 1 to the TASR](#) sets out the ongoing eligibility requirements for RPAs to continue their TPB recognition as a RBAA, RTAA, and RTFAA. The relevant legislative extracts are contained in [Appendix A](#).

## When is the AD form due?

The TPB will notify RPAs when their AD round commences, generally about four months after the RPA's financial statement year-end date. Please advise the TPB if the RPA's financial statement year-end date changes.

After the TPB notifies RPAs of the commencement of the AD process, the RPA has 28 days to submit the completed and signed AD form.

The TPB will advise of the relevant due date for lodgement of the AD form, as well as any other requested actions / further information required, in the covering AD request letter.

If there are any queries / concerns, please contact your TPB Key Client Manager (as noted in the covering letter).

## How do I complete the AD form?

Before completing the AD form, RPAs are encouraged to read the *Ongoing eligibility requirements for RPAs* on the TPB website. See further:

- [Ongoing eligibility requirements for RBAAAs](#)
- [Ongoing eligibility requirements for RTAAs](#)
- [Ongoing eligibility requirements for RTFAAs](#)

When completing the AD form, RPAs are required to complete all relevant questions by entering details into the relevant fields. The instructions for completing the AD form are set out below:

- Please place a ✓ in applicable boxes.
- If insufficient space is provided, please provide additional information separately as part of your email, and attach relevant evidence / supporting documentation with the AD form when submitting to the TPB.
- Information can be provided as a hyperlink to a relevant accessible website document, or as a separate attachment (noting the specific relevant clauses / paragraphs in the document(s)). If including a hyperlink to a relevant accessible website document, please link to the exact spot. If the information is not available to the public at large (rather members only), the TPB is to be provided with a means to access accordingly.
- If you have already provided information for an earlier question in the AD form, or on another AD form for another recognition status, please simply note where this information has been provided.
- A relevant authorised person must sign the required declaration section.

Submit the completed and signed AD form (with any additional information and / or attachments) electronically to your TPB Key Client Manager by the relevant due date.

To prevent unnecessary delays in the AD process, please ensure that:

- all relevant questions in the AD form have been completed;
- appropriate responses to any additional requests noted in the AD request letter (if any) have been provided; and
- accessible links to any relevant evidence / supporting documentation has been provided (or relevant information is attached).

## What information and documents should be attached with the AD form?

Before submitting a completed and signed AD form, it is important to include accessible links to (or attach) all relevant information and evidence / supporting documentation necessary to demonstrate that the RPA continues to satisfy the ongoing eligibility requirements in Schedule 1 to the TASR.

The minimum documentation required to support the AD form include copies of (or accessible links to) the RPA's most recent:

- audited financial statements and independent auditor's statement;
- Notice of Annual General Meeting (and explanatory memorandum if any); and
- Annual Report (if any).

## What TPB guidance is available in relation to the ongoing eligibility requirements?

The table below lists various TPB guidance on the interpretation of specific eligibility items in Schedule 1 to the TASR.

Relevant eligibility items in Schedule 1 to the TASR	Relevant TPB guidance
<p><b>Items 102/202/302</b> Adequate corporate governance and operational procedures</p>	<p>TPB Information Sheet <a href="#">TPB(I) 33/2018: Recognised professional associations - Corporate governance related requirements for recognition under the Tax Agent Services Regulations 2009</a> provides relevant guidance on the TPB's interpretation and application of the requirements that relate to corporate governance, operational procedures and accountability. It is a reference point for the TPB when assessing future AD responses.</p>
<p><b>Items 107/207/307</b> Management of organisation</p>	<p>In particular, paragraphs 43 to 45 of TPB(I) 33/2018 provide guidance on what should be demonstrated in relation to practices and procedures.</p>

Relevant eligibility items in Schedule 1 to the TASR	Relevant TPB guidance
<p><b>Items 103/203/303</b></p> <p>Professional and ethical standards for voting members</p>	<p>Generally, the TPB's approach to satisfying the continuing professional education ('CPE') requirements and professional indemnity ('PI') insurance requirements in this item are outlined in the following TPB Explanatory Papers:</p> <ul style="list-style-type: none"> <li>• <a href="#"><u>TPB(EP) 04/2012: Continuing professional education policy requirements for tax and BAS agents</u></a> This sets out the TPB's CPE requirements for tax and BAS agents.</li> <li>• <a href="#"><u>TPB(EP) 06/2014: Continuing professional education policy requirements for tax (financial) advisers</u></a> This sets out the TPB's CPE requirements for tax (financial) advisers.</li> <li>• <a href="#"><u>TPB(EP) 03/2010: Professional indemnity insurance requirements for tax and BAS agents</u></a> This sets out the TPB's PI insurance requirements for tax and BAS agents.</li> <li>• <a href="#"><u>TPB(EP) 05/2014: Professional indemnity insurance requirements for tax (financial) advisers</u></a> This sets out the TPB's PI insurance requirements for tax (financial) advisers.</li> </ul>
<p><b>Items 106/206/306</b></p> <p>Payment of debts as they fall due</p>	<p>The TPB considers various information relating to an RPA's ability to pay debts as they fall due. For example, the TPB may consider any outstanding tax obligations in relation to lodgment of returns (including income tax and FBT), GST obligations, PAYG withholding obligations and superannuation guarantee obligations for employees.</p>

Relevant eligibility items in Schedule 1 to the TASR	Relevant TPB guidance
<p><b>Items 108/209/309</b></p> <p>Number of voting members, and number of these voting members who are registered</p>	<p>The minimum requirement is:</p> <ul style="list-style-type: none"> <li>• 1,000 voting members, and</li> <li>• 500 of these voting members are: <ul style="list-style-type: none"> <li>○ registered tax agents for RTAAs</li> <li>○ registered BAS agents for RBAAAs</li> <li>○ registered tax (financial) advisers for RTFAAs.</li> </ul> </li> </ul> <p><u><i>Exercise of discretion</i></u></p> <p>The TPB will consider the appropriateness of exercising (or continuing to exercise) its discretion in relation to these items on a case-by-case basis, having regard to the purpose of the <i>Tax Agent Services Act 2009</i> (TASA) and the role of RPAs under the TASR, as well as the following non- exhaustive list of considerations:</p> <ul style="list-style-type: none"> <li>• extent to which the association meets the requirements in the item(s);</li> <li>• purpose and utility of the association’s recognition;</li> <li>• consumer protection benefits and/or risks of continuing recognition;</li> <li>• accreditation type(s) of the RPA and whether there is any utility in having multiple recognitions with the TPB.</li> </ul> <p>For further information on the TPB’s approach to exercising its discretion regarding the requirements under Items 108/209/309, refer to the TPB information sheet:</p> <ul style="list-style-type: none"> <li>• <a href="#">TPB(I) 35/2020 Recognised professional associations – Exercise of the TPB’s discretion regarding specific requirements for recognition under the Tax Agent Services Regulations 2009</a></li> </ul> <p>If the RPA does not satisfy the minimum requirement and is seeking the TPB to exercise (or continue to exercise) its discretion, it is recommended that the AD submission provided to the TPB addresses the above considerations and any other matters that are relevant to the TPB’s consideration of whether it is appropriate to exercise (or continue to exercise) its discretion.</p>

Relevant eligibility items in Schedule 1 to the TASR	Relevant TPB guidance
<p>Items 109/210/310</p> <p>Membership requirements for voting members</p>	<p>The items prescribe minimum requirements regarding the association’s qualification / experience requirements for voting members.</p> <p><i>Exercise of discretion</i></p> <p>The TPB recognises that some associations may have diverse membership and that, having regard to particular circumstances, it may be appropriate for the TPB to exercise (or continue to exercise) its discretion. The TPB will consider the appropriateness of exercising (or continuing to exercise) its discretion in relation to these items on a case-by-case basis, having regard to the purpose of the <i>Tax Agent Services Act 2009</i> (TASA) and the role of RPAs under the TASR, as well as the following non- exhaustive list of considerations:</p> <ul style="list-style-type: none"> <li>• extent to which the association meets the requirements in the item(s);</li> <li>• any amendments or proposed amendments to relevant association rules;</li> <li>• purpose and utility of the association’s recognition;</li> <li>• consumer protection benefits and/or risks of continuing recognition;</li> <li>• accreditation type(s) of the RPA and whether there is any utility in having multiple recognitions with the TPB.</li> </ul> <p>For further information on the TPB’s approach to exercising its discretion regarding the requirements under Items 109/210/310, refer to the TPB information sheet:</p> <ul style="list-style-type: none"> <li>• <a href="#">TPB(I) 35/2020 Recognised professional associations – Exercise of the TPB’s discretion regarding specific requirements for recognition under the Tax Agent Services Regulations 2009</a></li> </ul> <p>If discretion is currently being exercised, the RPA is to provide timely updates to the TPB in the event of any relevant changes to the association’s membership requirements for voting members. When providing this update, the RPA is to address the above considerations and any other matters that are relevant to the TPB’s consideration of whether it is appropriate to continue to exercise its discretion in relation to the RPA’s membership requirements for voting members.</p>

# Appendix A – Relevant legislative extracts from the Tax Agent Services Regulations 2009

## Recognised BAS agent associations

### 4E Notice to Board if recognised BAS agent association ceases to meet requirement of recognition

If a recognised BAS agent association ceases to meet a requirement for recognition that applies to the association, it:

- (a) must give the Board written notice that it no longer meets the requirement; and
- (b) must give the notice not later than 30 days after the day on which the association becomes aware, or ought to have become aware, that it no longer meets the requirement; and
- (c) may make a written submission to the Board about why the association's recognition should not be terminated having regard to:
  - (i) the purposes of the Act; and
  - (ii) the role of recognised BAS agent associations under these Regulations.

### Schedule 1 — Requirements to become a recognised association

#### Part 1 — Recognised BAS agent association

- 101 The organisation is a non-profit organisation.
- 102 The organisation has adequate corporate governance and operational procedures to ensure that:
  - (a) it is properly managed; and
  - (b) its internal rules are enforced.
- 103 The organisation has professional and ethical standards for its voting members, including terms to the effect that:
  - (a) voting members must undertake at least 15 hours of continuing professional education each year; and
  - (b) voting members must be of good fame, integrity and character; and
  - (c) each voting member is subject to rules controlling the member's conduct in the practice of his or her profession; and
  - (d) each voting member is subject to discipline for breaches of those rules; and
  - (e) if a voting member is permitted by that organisation to be in public practice, the voting member has professional indemnity insurance.

- 104 The organisation has satisfactory arrangements in place for:
- (a) notifying clients of its members, or of members of its member bodies, about how to make complaints; and
  - (b) receiving, hearing and deciding those complaints; and
  - (c) taking disciplinary action if complaints are justified.
- 105 The organisation has satisfactory arrangements in place for publishing annual statistics about:
- (a) the kinds and frequency of complaints (except complaints under the Act about entities registered under the Act); and
  - (b) findings made as a result of the complaints; and
  - (c) action taken as a result of those findings.
- 106 The organisation is able to pay its debts as they fall due.
- 107 The management of the organisation:
- (a) is required to be accountable to its members; and
  - (b) is required to abide by the corporate governance and operational procedures of the organisation.
- 108 The organisation has at least 1 000 voting members, of whom at least 500 are registered BAS agents.
- 109 Each voting member of the organisation has been awarded at least a Certificate IV Financial Services (Bookkeeping), or a Certificate IV Financial Services (Accounting), from:
- (a) a registered training organisation; or
  - (b) an equivalent institution.



## Recognised tax agent associations

### 5C Notice to Board if recognised tax agent association ceases to meet requirement of recognition

If a recognised tax agent association ceases to meet a requirement for recognition that applies to the association, it:

- (a) must give the Board written notice that it no longer meets the requirement; and
- (b) must give the notice not later than 30 days after the day on which the association becomes aware, or ought to have become aware, that it no longer meets the requirement; and
- (c) may make a written submission to the Board about why the association's recognition should not be terminated having regard to:
  - (i) the purposes of the Act; and
  - (ii) the role of recognised tax agent associations under these Regulations.

### Schedule 1 — Requirements to become a recognised association

#### Part 2 — Recognised tax agent association

201 The organisation is a non-profit organisation.

202 The organisation has adequate corporate governance and operational procedures to ensure that:

- (a) it is properly managed; and
- (b) its internal rules are enforced.

203 The organisation has professional and ethical standards for its voting members, including terms to the effect that:

- (a) 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; and
- (b) voting members must be of good fame, integrity and character; and
- (c) each voting member is subject to rules controlling the member's conduct in the practice of his or her profession; and
- (d) each voting member is subject to discipline for breaches of those rules; and
- (e) if a voting member is permitted by that organisation to be in public practice, the voting member has professional indemnity insurance.

Note: The appropriate number of hours of education each year may differ for members who have particular qualifications, areas of expertise or professional experience.

- 204 The organisation has satisfactory arrangements in place for:
- (a) notifying clients of its members, or of members of its member bodies, about how to make complaints; and
  - (b) receiving, hearing and deciding those complaints; and
  - (c) taking disciplinary action if complaints are justified.
- 205 The organisation has satisfactory arrangements in place for publishing annual statistics about:
- (a) the kinds and frequency of complaints made to the organisation (except complaints under the Act about entities registered under the Act); and
  - (b) findings made as a result of the complaints; and
  - (c) action taken as a result of those findings.
- 206 The organisation is able to pay its debts as they fall due.
- 207 The management of the organisation:
- (a) is required to be accountable to its members; and
  - (b) is required to abide by the corporate governance and operational procedures of the organisation.
- 208 An organisation is taken to have arrangements that comply with a requirement in item 203, 204 or 205 if the organisation is, or its members are, subject to:
- (a) a law of a State or Territory; or
  - (b) a rule or other instrument of a body created by or under a law of a State or Territory;
- that sets out a requirement in terms that are the same, or that have a similar effect, to the requirement in item 203, 204 or 205.
- 209 The organisation has at least 1 000 voting members, of whom at least 500 are registered tax agents.
- 210 Each voting member of the organisation is required to comply with at least 1 of the following requirements:
- (a) the member has been awarded a degree or a post-graduate award from:
    - (i) an Australian tertiary institution; or
    - (ii) an equivalent institution;in the discipline of accountancy;

- (b) the member has been awarded a diploma or higher award from:
  - (i) a registered training organisation; or
  - (ii) an equivalent institution;in the discipline of accountancy;
- (c) the member has the academic qualifications required to be an Australian legal practitioner;
- (d) the member was:
  - (i) registered as a tax agent, or as a nominee, for the purposes of Part VIIA of the Income Tax Assessment Act 1936 as in force immediately before this Schedule commences; and
  - (ii) a member of, and entitled to vote at meetings of, a recognised professional association within the meaning of section 251LA of the Income Tax Assessment Act 1936 as in force immediately before this Schedule commences;
- (e) the member has the equivalent of 8 years of full-time experience in providing tax agent services in the past 10 years.

## Recognised tax (financial) adviser associations

### 5J Notice to Board if recognised tax (financial) adviser association ceases to meet requirement of recognition

If a recognised tax (financial) adviser association ceases to meet a requirement for recognition that applies to the association, it:

- (a) must give the Board written notice that it no longer meets the requirement; and
- (b) must give the notice not later than 30 days after the day on which the association becomes aware, or ought to have become aware, that it no longer meets the requirement; and
- (c) may make a written submission to the Board about why the association's recognition should not be terminated having regard to:
  - (i) the purposes of the Act; and
  - (ii) the role of recognised tax (financial) adviser associations under these Regulations.

### Schedule 1—Requirements to become a recognised association

#### Part 3 — Recognised tax (financial) adviser association

301 The organisation is a non-profit organisation.

302 The organisation has adequate corporate governance and operational procedures to ensure that:

- (a) it is properly managed; and
- (b) its internal rules are enforced.

303 The organisation has professional and ethical standards for its voting members, including terms to the effect that:

- (a) 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; and
- (b) voting members must be of good fame, integrity and character; and
- (c) each voting member is subject to rules controlling the member's conduct in the practice of his or her profession; and
- (d) each voting member is subject to discipline for breaches of those rules; and
- (e) if a voting member is permitted by that organisation to be in public practice, the voting member has professional indemnity insurance.

Note: The appropriate number of hours of education each year may differ for members who have particular qualifications, areas of expertise or professional experience.

- 304** The organisation has satisfactory arrangements in place for:
- (a) notifying clients of its members, or of members of its member bodies, about how to make complaints; and
  - (b) receiving, hearing and deciding those complaints; and
  - (c) taking disciplinary action if complaints are justified.
- 305** The organisation has satisfactory arrangements in place for publishing annual statistics about:
- (a) the kinds and frequency of complaints made to the organisation (except complaints under the Act about entities registered under the Act); and
  - (b) findings made as a result of the complaints; and
  - (c) action taken as a result of those findings.
- 306** The organisation is able to pay its debts as they fall due.
- 307** The management of the organisation:
- (a) is required to be accountable to its members; and
  - (b) is required to abide by the corporate governance and operational procedures of the organisation.
- 308** An organisation is taken to have arrangements that comply with a requirement in item 303, 304 or 305 if the organisation is, or its members are, subject to:
- (a) a law of a State or Territory; or
  - (b) a rule or other instrument of a body created by or under a law of a State or Territory;
- that sets out a requirement in terms that are the same as, or that have a similar effect to, the requirement in item 303, 304 or 305.
- 309** The organisation has at least 1 000 voting members, of whom at least 500 are registered tax (financial) advisers.
- 310** Each voting member of the organisation is required to comply with at least 1 of the following requirements:
- (a) the member has been awarded a degree or a post-graduate award from:
    - (i) an Australian tertiary institution; or
    - (ii) an equivalent institution;in a relevant discipline (within the meaning of item 305 Schedule 2);

- (b) the member has been awarded a diploma or higher award from:
  - (i) a registered training organisation; or
  - (ii) an equivalent institution;in a relevant discipline (within the meaning of item 305 Schedule 2);
- (c) the member has the equivalent of 6 years of full-time experience in providing tax (financial) advice services in the past 8 years.