



Australian Government



TAX PRACTITIONERS BOARD

TPB Information sheet

TPB(I) 14/2012

Tertiary qualifications in a discipline other than accountancy for tax agents

DISCLAIMER

This is a Tax Practitioners Board (Board) Information sheet (TPB(I)). It is intended to be for information only. It provides an overview of the Board's position in relation to the application of item 202 in Schedule 2 of the *Tax Agent Services Regulations 2009* (TASR). While it seeks to provide practical assistance and explanation, it does not exhaust, prescribe or limit the scope of the Board's powers provided in the *Tax Agent Services Act 2009* (TASA) and the TASR.

In addition, please note that the principles, explanation and examples in this TPB(I) do not constitute legal advice and do not create additional rights or legal obligations beyond those that are contained in the TASA, the TASR, or which may exist at law. Please refer to the TASA and the TASR for the precise content of the legislative requirements.

Document history

The Board released this document as a draft Information sheet in the form of an Exposure draft on 4 November 2011. The Board invited comments and submissions in relation to the information in it. The closing date for submissions was 19 December 2011. The Board considered the submissions made and now publishes the following TPB(I).

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Tertiary qualifications in a discipline other than accountancy for tax agents

Introduction

1. Item 202 in Schedule 2 of the *Tax Agent Services Regulations 2009* (TASR) (Item 202) contains one of the six options for meeting the qualifications and experience requirements for registration, including renewal of registration, as a tax agent. This item permits applicants who have tertiary qualifications in a discipline other than accountancy to be registered as tax agents, subject to meeting the other requirements of the item and other registration requirements, such as being a fit and proper person.
2. This Information sheet (TPB(I)) sets out the views of the Tax Practitioners Board (Board) in relation to the application of Item 202. These views are applicable only in circumstances where a condition is to be imposed on registration under subsection 20-25(5) of the *Tax Agent Services Act 2009* (TASA).
3. This TPB(I) does **not** apply to applicants relying on Item 202 to obtain full, or 'unconditional', registration as a tax agent. In these cases, the Board will assess the application having regard to the relevant requirements in the TASA and TASR.
4. In summary, there are three basic requirements of Item 202. Applicants must have:
 - (i) a relevant degree or a post-graduate award in a discipline other than accountancy
 - (ii) if the Board considers it relevant to the tax agent services to which the application relates, as many of the following Board approved courses as the Board considers necessary:
 - a course in basic accountancy principles
 - a course in commercial law



- a course in Australian taxation law
 - (iii) been engaged in the equivalent of 12 months of full-time relevant experience in the past five years.
5. The purpose of this TPB(I) is to assist existing registered tax agents and new individual applicants to understand the Board's approach to the second of these requirements.

Structure and summary of this TPB(I)

6. In this TPB(I) you will find the following information:
- background and scope about becoming a registered tax agent (paragraphs 7 to 11);
 - the Board's power to impose conditions on registration (paragraphs 12 to 14)
 - the Board's approach to Item 202(b) in Schedule 2 of the TASR (Item 202(b)), as it relates to:
 - individuals registered as a tax agent as at 1 July 2013 (paragraphs 16 to 18)
 - new applicants from 1 July 2013 (paragraphs 19 to 34).

Background and scope about becoming a registered tax agent

7. To become a registered tax agent, an individual must meet certain eligibility criteria, including the qualifications and experience requirements prescribed in the TASR¹.
8. Once registered, individual tax agents must again satisfy these qualifications and experience requirements at renewal of registration. Generally, this will be straightforward for agents who have already demonstrated their qualifications and experience in the past in order to become registered and have continued in practice. However, agents who obtained registration after 1 March 2010 by relying on the notification method to become registered² or on the transitional

¹ During the period 1 March 2010 to 31 August 2010, inclusive, there were transitional arrangements allowing individuals to register as a tax agent without having to meet the qualifications and experience requirements prescribed in the TASR.

² The notification registration option did not require notifying agents to demonstrate qualifications or experience.



registration option³ will be required to meet the qualifications and experience requirements for the first time.

9. The six options for individuals to meet the prescribed qualifications and experience requirements are contained in Part 2 of Schedule 2 of the TASR.

10. One of the six options is Item 202, which provides:

A requirement is that:

- (a)** the individual has been awarded:
 - (i) a degree or post-graduate award from an Australian tertiary institution in a discipline other than accountancy that is relevant to the tax agent services to which the application relates, or
 - (ii) a degree or award that is approved by the Board from an equivalent institution in a discipline other than accountancy that is relevant to the tax agent services to which the application relates, and
- (b)** if the Board considers it relevant to the tax agent services to which the application relates – the individual has also successfully completed as many of the following courses as the Board considers necessary:
 - (i) a course in basic accountancy principles that is approved by the Board
 - (ii) a course in commercial law that is approved by the Board
 - (iii) a course in Australian taxation law that is approved by the Board, and
- (c)** the individual has been engaged in the equivalent of 12 months of full-time, relevant experience in the past five years.

11. To meet the requirements of Item 202, all individuals are required to satisfy the requirements of Items 202(a) and 202(c). In relation to Item 202(b), the Board's approach varies depending on whether the individual is registered as a tax agent as at 1 July 2013, or is a new applicant seeking registration from 1 July 2013.

³ The transitional registration option required applicants to demonstrate only that they had been providing a tax agent service within a particular area of the taxation laws to a competent standard, and for a more limited period than is required for a standard registration application.



Board's power to impose conditions on registration

12. Under subsections 20-25(5) to (7) of the TASA, the Board may impose one or more conditions on an individual's registration to limit the scope of services that the individual may provide to a particular type of tax agent service or a particular area of the taxation laws.

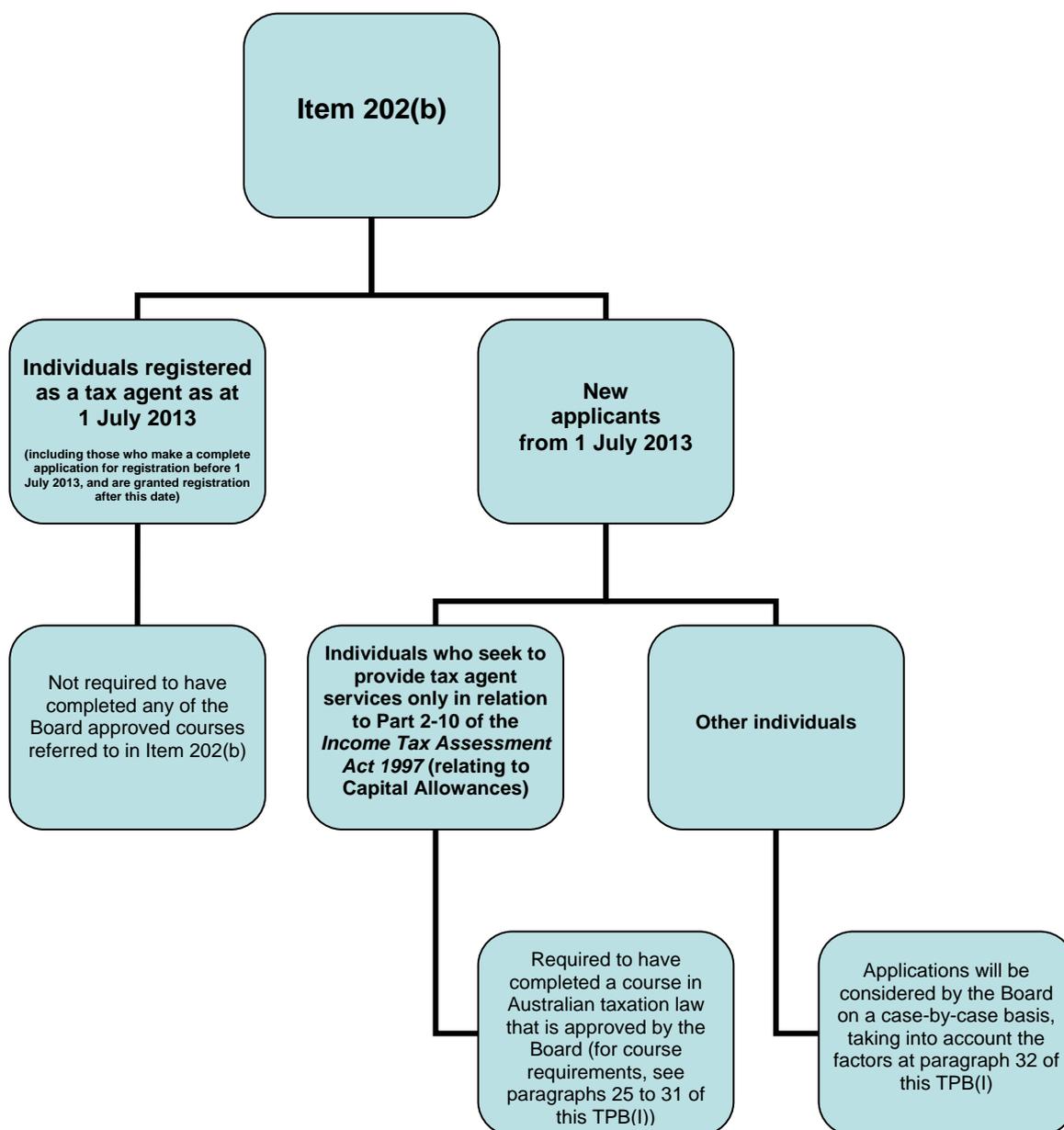
13. It may be appropriate for the Board to impose a condition where an individual does not intend to provide the full suite of tax agent services.

14. Under subsection 20-25(7) of the TASA, the Board must have regard to the individual's qualifications and relevant experience in determining whether any limitation should be placed on the individual applicant's registration.



Board's approach to Item 202(b)

15. The Board's approach for individuals to meet the requirements of Item 202(b) is summarised as follows⁴:



⁴ All individuals are required to meet the requirements of Items 202(a) and 202(c) to satisfy the qualifications and experience requirements under Item 202.



Individuals registered as a tax agent as at 1 July 2013

16. The Board's view is that individuals registered as a tax agent as at 1 July 2013, including those who make a complete application for registration before 1 July 2013 and are granted registration after this date, will not be required to have completed any of the Board approved courses referred to in Item 202(b) for the purpose of meeting the requirements of Item 202.
17. The Board notes, however, that under the Code of Professional Conduct, registered agents are required to maintain knowledge and skills relevant to the tax agent services they provide.⁵
18. The Board expects that this knowledge and skill will be able to be enhanced through continuing professional education (CPE).⁶

New applicants from 1 July 2013

19. From 1 July 2013, new applicants will fall into one of the following broad categories for the purposes of Item 202:
- individuals who seek to provide tax agent services in relation to Part 2-10 of the *Income Tax Assessment Act 1997* (ITAA 1997) (relating to Capital Allowances)
 - other individuals.
20. The Board may, over time, develop additional categories of new applicants for the purposes of paragraph 19, particularly when one of the categories of tax agents identified in [Schedule 1](#), or another category that does not currently appear in Schedule 1, becomes significant enough to justify the development of specific Board approved courses.
21. The Board's approach regarding the application of Item 202(b) recognises that there is a group of tax agents who have already obtained registration pursuant to Item 202. Some of these agents, and others registered under other eligibility items, have conditions imposed on

⁵ Section 30-10(8) of the TASA.

⁶ For further information regarding the Board's policy in relation to CPE, refer to *Explanatory Paper TPB(EP) 04/2012 Continuing Professional Education* available at www.tpb.gov.au.



their registration. Further, the Board understands that a number of tax agents whose registration is subject to a condition may seek to renew their registration pursuant to Item 202.

22. The Board has considered the various categories of tax agents who may seek to renew their registration under Item 202 (see [Schedule 1](#)). The Board is of the view that although there are a number of different categories, only one of these categories is significant enough to justify the development of a specific Board approved course. This category relates to those individuals providing, or seeking to provide, tax agent services in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances). These individuals are often described by the Board as quantity surveyors.

23. Accordingly, the Board's view is that, from 1 July 2013, all new applicants who seek to provide tax agent services in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances) must have completed a specific course in Australian taxation law that is approved by the Board to meet the requirements of Item 202(b). More information about the Board's approach to this group is set out in paragraphs 25 to 31.

24. All **other new applicants from 1 July 2013** will be subject to a principles-based approach where the Board will consider the following factors when determining the requirement for any Board approved courses for the purposes of Item 202(b) (refer to paragraphs 32 to 34):

- the applicant's qualifications for the purpose of meeting the requirements of Item 202(a)
- any other qualifications or courses completed by the applicant which are relevant to the tax agent services to which the application relates
- any work experience undertaken by the applicant which is relevant to the tax agent services to which the application relates, and
- any other information the Board considers relevant to the tax agent services to which the application relates.



Individuals seeking to provide tax agent services only in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances)

25. The Board's view is that, from 1 July 2013, new applicants seeking to provide tax agent services only in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances) must have completed a course in Australian taxation law that is approved by the Board to meet the requirements of Item 202(b). These applicants are often described by the Board as quantity surveyors.

26. The Board is of the view that a course in Australian taxation law that is approved by the Board for the purposes of paragraph 25 must cover at least the following areas of taxation law:

- Part 2-10 of the ITAA 1997, and
- The TASA, including the Code of Professional Conduct.

27. In addition, it is the Board's view that the appropriate level of knowledge for such a course should be at a Diploma level which is equivalent to a Level 5 as specified in the Australian Qualifications Framework (AQF).⁷ This means that individuals will have specialised knowledge and skills for skilled/paraprofessional work and/or further learning.

28. The Board is of the view that a hard-and-fast rule on the manner of delivery of the course is not necessary. Provided the manner adopted for the course delivery involves an expectation that students develop knowledge of the topics listed at paragraph 26 at the requisite level (see paragraph 27), it is immaterial whether they are undertaking the course in a face-to-face setting or via an online computer-based learning module or webinar, with an assessment at the end. The outcomes of the course should be discernible by reference to how the course is assessed.

29. It is the Board's view that a course in Australian taxation law which covers the topics listed at paragraph 26 at the requisite depth and with an appropriate assessment should be at least one full day in duration.

⁷ See Australian Qualifications Framework 2011, available at www.aqf.edu.au.



30. It is the Board's view that individuals must have demonstrated their knowledge and skills in the course by some means of independent and objective assessment. Assessment may occur by a variety of modes including being conducted online, provided that suitable quality assurance mechanisms are in place to ensure the integrity of the examination process. For example, it is expected that a course could be run as an online, computer-based module or webinar that applicants could undertake and then complete a form of assessment at the end of the module or webinar.

31. Independent and objective assessment refers to assessment practices which are conducted under the supervision of an invigilator (independent exam supervisor). The Board is of the view that invigilators must be examination officers of universities, TAFE or registered training organisation colleagues, ministers of religion, police officers, lecturers, teachers, school principals or deputy principals, justices of the peace, commissioners of declarations or other supervisors considered acceptable to the Board. The assessment should not be administered by a family member, friend or someone that has a close personal or professional relationship with the individual undertaking the assessment.

Other individuals

32. As indicated at paragraph 24, the Board's view is that, from 1 July 2013, applications from new applicants other than those seeking to provide tax agent services in relation to Part 2-10 of the ITAA 1997 (relating to Capital Allowances) will be considered on a case-by-case basis, taking into account the following factors:

- the applicant's qualifications for the purpose of meeting the requirements of Item 202(a)
- any other qualifications or courses completed by the applicant which are relevant to the tax agent services to which the application relates
- any work experience undertaken by the applicant which is relevant to the tax agent services to which the application relates, and
- any other information the Board considers relevant to the tax agent services to which the application relates.



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33. Following consideration of these factors, the Board will determine which, if any, of the Board approved courses referred to in Item 202(b) are required for the purpose of meeting the requirements of that provision.

34. This approach provides flexibility for the Board and the applicant. It means that an applicant will need to demonstrate that they have completed sufficient educational qualifications or courses for the purpose of their particular application for registration as a tax agent. For the Board, this approach allows it to consider additional categories of applicants in addition to those noted in Schedule 1.



Schedule 1

Categories of registered tax agents with conditions on registration⁸

Category of registered tax agent	Number of agents
<p>Quantity surveyors</p> <p>provide tax agent services in relation to Part 2-10 of the <i>Income Tax Assessment Act 1997</i> (relating to Capital Allowances)</p>	464
<p>Research and development</p> <p>provide tax agent services in relation to Part III, Division 3 of the <i>Income Tax Assessment Act 1936</i> (relating to research and development activities)</p>	114
<p>BAS services</p> <p>provide tax agent services in relation to various BAS provisions as defined in section 995-1 of <i>Income Tax Assessment Act 1997</i></p>	48
<p>Superannuation</p> <p>provide tax agent services in relation to various superannuation laws</p>	46
<p>Fringe Benefits Tax</p> <p>provide tax agent services in relation to the <i>Fringe Benefits Tax Assessment Act 1986</i></p>	24
<p>Indirect taxes</p> <p>provide tax agent services in relation to various indirect taxes</p>	21
<p>Salary packaging</p> <p>provide tax agent services in relation to salary packaging rules</p>	20
<p>Other⁹</p>	95

⁸ Current as at 7 August 2012.

⁹ This category is made up of a number of smaller categories where the total number of agents in each is less than 15.