



Australian Government



TAX PRACTITIONERS BOARD

TPB Information Sheet

TPB(I) 24/2015

Relevant experience for tax (financial) advisers

Disclaimer

This is a Tax Practitioners Board (TPB) Information sheet (TPB(I)). It is intended to be for 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 in the *Tax Agent Services Act 2009* (TASA) and the *Tax Agent Services Regulations 2009* (TASR).

In addition, please note that the principles 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 or which may exist at law. Please refer to the TASA for the precise content of the legislative requirements.

Document history

The TPB released this document as a draft Information Sheet in the form of an Exposure draft on 12 January 2015. The TPB invited comments and submissions in relation to the information in it. The closing date for the submissions was 26 February 2015. The TPB considered the submissions made and now publishes the following TPB(I).

Issued: 17 April 2015

Relevant experience for tax (financial) advisers

Introduction

1. From 1 January 2016, entities¹ will be able to seek registration (including renewal of registration) as a tax (financial) adviser under the 'standard option'.
2. The eligibility requirements for registration as a tax (financial) adviser under the standard application option are contained in section 20-5 of the *Tax Agent Services Act 2009* (TASA). One of these eligibility requirements for individual applicants is that the individual has been engaged in the equivalent of between 12 months and six years of full-time **relevant experience**.²
3. The purpose of this Tax Practitioners Board (TPB) Information Sheet TPB(I) is to assist individuals to understand the TPB's approach to the meaning of 'relevant experience' for the purpose of registration as a tax (financial) adviser under the standard application option.

Relevant experience

Legislative background

4. 'Relevant experience' is defined in Item 305 of Schedule 2, Part 3, Division 2 of the Tax Agent Services Regulations 2009 (TASR) to mean work by an individual:
 - (a) as a registered tax (financial) adviser; or
 - (b) as a registered tax agent; or
 - (c) under the supervision and control of a registered tax (financial) adviser; or
 - (d) under the supervision and control of a registered tax agent; or
 - (e) of another kind approved by the Board; and

that included substantial involvement in one or more of the types of tax (financial) advice services described in section 90-15 of the TASA, or substantial involvement in a particular area of taxation law to which one or more of those types of tax (financial) advice services relate.

5. There is no definitive listing of the types of experience that will constitute relevant experience, recognising that there is significant variation in the types and descriptions of work undertaken by individuals in the financial services profession. For example, the experience that a para planner accrues may constitute relevant experience where the para planner is involved in the provision of a tax (financial) advice service. On the other hand, a para planner who merely assists a representative, by undertaking background research, would not necessarily be able to count that experience towards meeting the relevant experience requirement.

¹ An 'entity' for the purposes of this TPB(I) means an individual (including an individual in the capacity as trustee of a trust), partnership or company (including a company in the capacity as trustee of a trust).

² The precise amount of relevant experience will vary depending on which of the four items in Schedule 1, Part 3, Division 1 of the TASR the individual is seeking to rely on for the purpose of meeting the qualifications and experience requirement. See also paragraph 21 of this TPB(I).

6. Ultimately, whether an individual satisfies the relevant experience requirement is a question of fact to be determined by the TPB on a case-by-case basis having regard to the individual's circumstances and the extent to which they are involved in the provision of a tax (financial) advice service³.

(a) Meaning of work 'as a registered tax (financial) adviser'

7. Relevant experience includes providing the service of a tax (financial) adviser registered under the TASA.
8. This includes registration as a tax (financial) adviser under the 'notification option'⁴, 'transitional application option'⁵ and the 'standard application option'.

(b) Meaning of work 'as a registered tax agent'

9. A registered tax agent means an individual registered as a tax agent under the TASA, or the *Income Tax Assessment Act 1936* as in force immediately before 1 March 2010.
10. Recognising that tax (financial) advice services are a subset of tax agent services, this element allows the TPB to count relevant experience accrued as a tax agent, including before 1 July 2014. This will be particularly useful for those individuals providing tax (financial) advice services who registered as a tax agent prior to 1 July 2014 despite the then carve out for certain Australian financial services (AFS) licensees and their authorised representatives from the tax agent services regime.⁶

(c) Meaning of work 'under the supervision and control of a registered tax (financial) adviser'

11. Relevant experience includes work by an individual under the supervision of a registered tax (financial) adviser.
12. The requirement for supervision and control includes an employer-employee relationship. It may also include services which are provided under a contract for service, depending on the circumstances.⁷

³ For more information on the meaning of 'tax (financial) advice service', see [TPB\(I\) 20/2014 What is a tax \(financial\) advice service? available at www.tpb.gov.au](#).

⁴ Registration as a tax (financial) adviser under the 'notification option' means registration under Item 49 in Schedule 1, Part 3 of the *Tax Laws Amendment (2013 Measures No. 3) Act 2013*.

⁵ Registration as a tax (financial) adviser under the 'transitional application option' means registration under Item 50 in Schedule 1, Part 3 of the *Tax Laws Amendment (2013 Measures No. 3) Act 2013*.

⁶ See sub-regulation 13(2) of the TASA.

⁷ For more information on adequate supervisory arrangements, see [TPB\(I\) 23/2014 Sufficient number requirement for partnership and company registered tax \(financial\) advisers, available at www.tpb.gov.au](#).

(d) Meaning of work ‘under the supervision and control of a registered tax agent’

13. Relevant experience includes work by an individual under the supervision of a registered tax agent.
14. Again, recognising that tax (financial) advice services are a subset of tax agent services, this element allows the TPB to count relevant experience accrued under the supervision of an entity registered with the TPB as a tax agent.
15. As outlined in paragraph 12 above, the requirement for supervision and control includes an employer-employee relationship. It may also include services which are provided under a contract for service, depending on the circumstances.⁸

(e) Meaning of work ‘of another kind approved by the Board’

16. The TPB has the discretion to recognise other types of experience which do not meet the above elements. This includes relevant experience that individuals gained prior to 1 July 2014.⁹
17. For the purpose of this element, for AFS licensees and authorised representatives, the TPB will count relevant experience accrued by these entities prior to 1 July 2014 that would have required the AFS licensee and/or authorised representative to register with the TPB as a tax agent but for the various carve outs that existed for these entities from 1 March 2010 to 30 June 2014. The TPB will also consider experience gained prior to the commencement of the tax agent services regime in March 2010 as relevant where tax advice has been provided in the context of financial advice.
18. The TPB will also count relevant experience accrued during the notification period (that is 1 July 2014 and 31 December 2015) by an AFS licensee or representative who is not registered with the TPB, provided the AFS licensee or representative uses or used the relevant disclaimer.¹⁰ This recognises that AFS licensees and representatives can, in certain circumstances, continue to provide tax (financial) advice services for a fee or other reward up to 31 December 2015 without registering with the TPB as a tax (financial) adviser or tax agent.
19. The TPB may also count other relevant experience accrued by an individual, depending on the circumstances. In these cases, the onus will be on the individual to satisfy the TPB why it should count the relevant experience. In this regard, the individual will need to include a written submission with their application for registration outlining the relevant experience and the reasons why they believe it should be approved as ‘relevant experience’.

⁸ For more information on adequate supervisory arrangements, see [TPB\(I\) 23/2014 Sufficient number requirement for partnership and company registered tax \(financial\) advisers](#), available at www.tpb.gov.au.

⁹ See Explanatory Statement to Select Legislative Instrument No. 115, 2014.

¹⁰ For more information on the requirements of the relevant disclaimer, see sub-item 49(4) of the *Tax Laws Amendment (2013 Measures No. 3) Act 2013*.

Meaning of 'substantial involvement'

20. The required work experience must have included substantial involvement in one or more of the types of tax (financial) advice services described in section 90-15 of the TASA, or substantial involvement in a particular area of taxation law to which one or more of those types of tax (financial) advice services relate.¹¹
21. The TPB is of the view that 'substantial involvement' means ample or considerable involvement. It requires more than simply being involved from time to time in the provision of one or more types of tax (financial) advice services. By way of example, this could include regular and frequent involvement in the taxation aspects relating to statements of advice.
22. Given that the substantial involvement must be in one or more types of tax (financial) advice services, or substantial involvement in a particular area of taxation law, the TPB will not accept work done in providing financial services that does not involve, or relate to, providing tax advice.

Amount of relevant experience required

23. The amount of relevant experience required will vary depending on which of the following four items in Schedule 1, Part 3, Division 1 of the TASR the individual is seeking to rely on for the purpose of meeting the qualifications and experience requirement:

Regulation Item	Qualification	Amount of relevant experience
301	Tertiary qualification	Equivalent of 12 months full-time in the preceding 5 years
302	Diploma or higher award	Equivalent of 18 months full-time in the preceding 5 years
303	Work experience	Equivalent of 3 years full-time in the preceding 5 years
304	Membership of professional association	Equivalent of 6 years full-time in the preceding 8 years

¹¹ For more information on the meaning of 'tax (financial) advice service', see [TPB\(I\) 20/2014 What is a tax \(financial\) advice service? available at \[www.tpb.gov.au\]\(http://www.tpb.gov.au\)](#).