



THE HON STEPHEN JONES MP
ASSISTANT TREASURER AND MINISTER FOR FINANCIAL SERVICES

Dear Tax Bodies

I am writing to update you on the *Tax Agent Services (Code of Professional Conduct) Determination 2024*, and to provide you my agreement in writing to amending the instrument in response to industry concerns regarding two key policy areas.

I wrote to you on 31 July and 27 August 2024 indicating that I would consider further changes to this instrument should they be required. You have raised concerns with me regarding a suitable transition period being set out in the instrument, and two specific sections of the instrument (sections 15 and 45).

I have already made an instrument that has inserted a transitional rule into the determination that provides firms with 100 employees or less until 1 July 2025 and larger firms with 101 employees or more until 1 January 2025 to bring themselves into compliance with the new obligations. The instrument was registered on the Federal Register of Legislation on 9 September 2024.

I have also considered the changes you have suggested be made to the instrument over recent weeks. I intend to amend the instrument to reflect the intent of your suggested changes.

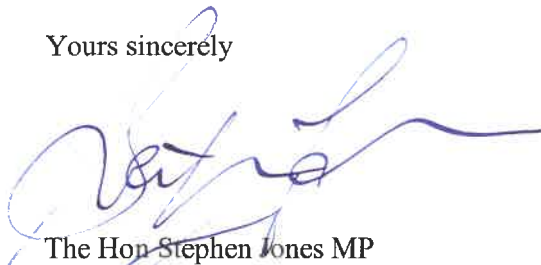
While acknowledging the importance of a trusted relationship between a tax agent and a client, it is also essential to balance this with the need to maintain public trust and confidence in the integrity of the tax profession and the tax system, and to mitigate fraud and tax evasion. As we discussed, I do not intend to remove the obligation to inform regulators of material false and misleading statements entirely. However, I do intend to make amendments to reflect more closely the ethical standards in the Accounting Professional & Ethical Standards Board's *APES 110 Code of Ethics for Professional Accountants*, *APES 220 Taxation Services* and *APES 320 Quality Management*. This will ensure the obligations are appropriately targeted to matters that have caused, or may still cause, substantial harm to the interest of others (including things like tax evasion, tax fraud, phoenixing, and financial crime). These obligations will not extend to non-material matters or genuine errors.

In order to ensure clients are adequately informed in choosing a tax agent to represent them, the current instrument requires tax agents to disclose to their clients any matter that could significantly influence a decision of a client to engage the agent to provide tax agent services. The explanatory statement provided a list of matters that tax agents may need to disclose to their clients (such as their registration being terminated or being convicted of a serious tax offence). I will amend the instrument to provide clarity, by lifting the matters touched on in the explanatory statement into the instrument. The list will also include new matters not previously described in the explanatory statement, such as those relating to bankruptcy. A tax practitioner will not have to disclose information about their health and wellbeing, sexual orientation, or religious beliefs. The list in the revised instrument will also not require a tax agent to disclose active or ongoing investigations.

Treasury is finalising drafting on this matter and will share with you, as a matter of priority, an updated draft amending instrument. My office will meet with you to finalise the instrument for public release. I then intend to publicly consult on the revised instrument and explanatory statement over the coming weeks, with a view to finalise the instrument in early October. While I may make further changes to correct for any unintended consequences in response to feedback provided, I do not intend to change the intended scope and stated policy intent behind the instrument. Moving forward, I trust these changes will help you to support your members to comply with the new code requirements in the spirit of good governance and integrity to which this is intended.

I hope this information responds to the substantive concerns you have on the tax determination, and I look forward to working with you constructively on this issue over the coming weeks.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Stephen Jones', written over a faint, illegible typed name.

The Hon Stephen Jones MP

12 SEP 2024