



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

25 September 2024

Dear Tax Bodies

I am writing to update you on the *Tax Agent Services (Code of Professional Conduct) Determination 2024*, and to inform you that public consultation on this instrument will begin today and close in one week on Wednesday, 1 October.

In your previous correspondence to me, you have raised concerns regarding a suitable transition period being set out in the instrument, and two specific sections of the instrument (sections 15 and 45). The instrument providing a suitable transition period was registered on the Federal Register of Legislation on 9 September 2024. I thank you for working with me and my office to settle amendments to sections 15 and 45.

You have suggested removing the obligation in section 15 for tax agents to inform appropriate regulators where a client refuses to fix significant and materially false and misleading statements. This obligation is limited to statements a tax agent had made or helped prepare. It remains my view that, where a tax agent has been involved in making or preparing the materially false statement, there is an obligation on the tax agent to find a suitable remedy. This is because materially false and misleading statements can and do have flow on effects for all Australian taxpayers, our tax system and the economy. Tax evasion and fraud undermines the fairness of our tax system, reduces revenues that otherwise provide government services like the NDIS and aged care, and harms people and businesses that engage with non-compliant entities (such as entities that illegally phoenix).

You have however acknowledged existing obligations for accountants to respond to their client's non-compliance with the law, and suggested amendments to align section 15 more closely with 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*. Your suggestions included introducing an obligation to withdraw services at a certain threshold, and to disclose information to the relevant regulator at a higher threshold. These obligations align with the principles of APES 110 section 360 (in particular section 360.36), and I anticipate many practitioners meet these obligations. Lifting these existing obligations to the code will provide consistency and certainty for industry. I have therefore made these suggested changes to the instrument.

You also suggested amendments to section 45 to provide a list of matters that a tax agent would need to disclose to their potential clients, in order to ensure clients are adequately informed in choosing a tax agent to represent them. Many of these matters were already included in the explanatory statement, however I have agreed to lift these matters into the instrument itself. 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.

Thank you again for your constructive engagement on this matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Stephen Jones', with a long horizontal flourish extending to the right.

The Hon Stephen Jones MP