

# Tax Agent Services (Code of Professional Conduct) Determination 2024

## Tax News Special Release

### Tax News Special Release re: Tax Agent Services (Code of Professional Conduct) Determination 2024

CPA Australia recognises the concern caused by the [release](#) of the legislative instrument *Tax Agent Services (Code of Professional Conduct) Determination 2024* (the [Determination](#)) this week. As your membership body, we are here to support you and advocate on your behalf. We expressed our concerns on a draft Determination in a [submission](#) prepared jointly with fellow professional member associations<sup>1</sup>.

We are disappointed with the failure of the Government to address our legitimate concerns with the draft Determination, and its introduction of not-previously seen requirements in the final document. There remains a continued disregard by Government and legislators of the impact of these ongoing regulatory changes on smaller practitioners. The new rules are poorly defined and potentially far too expansive. In particular, we recognise concerns around the requirement for a quality management system (section 40) and the obligation to make certain notifications to clients (section 45).

#### What we've done so far

In January 2024, our [Joint Submission](#) on the exposure draft (draft Determination) and accompanying explanatory materials (ES) raised concerns about:

- the lack of clarity around the prescriptive obligations, as a result of poor drafting
- the inconsistencies between the proposed items to be included in the Code of Professional Conduct (the [Code](#)) and the established obligations under the Code, resulting in duplication and confusion
- the breadth of the proposed notification obligations and its retrospective nature.

#### What it means

CPA Australia is seeking assurance from government and the TPB that the obligations set out in the Determination will impact very few of our members. The obligations regarding honesty and integrity, independence, confidentiality and competence are consistent with the existing obligations in the Code and with the fundamental principles in [APES 110 Code of Ethics for Professional Accountants](#).

The ES references [APES 320 Quality Management for Firms that provide Non-Assurance Services](#) (APES 320) as providing details about appropriate quality management processes. Accordingly, members who have a system of quality control in accordance with APES 320 or [Auditing Standard ASMQ 1](#) (where required) should satisfy the quality management systems obligation of section 40 of the Determination.

Similarly, the ES provides guidance regarding how to apply the client notification obligation in section 45 of the Determination. This guidance requires further clarity but matters of consideration include:

- prior material breaches of the *Tax Agent Services Act 2009*
- current investigations of the tax agent by the Tax Practitioners Board (TPB) of a material breach of the Code
- any sanction imposed by the TPB

<sup>1</sup> The Australian Bookkeepers Association, Chartered Accountants Australia and New Zealand, Financial Advice Association of Australia, the Institute of Public Accountants, the Institute of Certified Bookkeepers, National Tax & Accountants' Association, the SMSF Association, and The Tax Institute

- any conditions applying to the tax agent's registration with the TPB
- any potential use of disqualified entities in relation to the potential or existing client
- any charge or conviction relating to an offence relating to fraud or dishonesty
- imposition of a promotor penalty under the tax law
- any charge or conviction relating to a tax offence.

CPA Australia is of view that the obligations set out in section 45 of the Determination should be limited to actions regarding the tax agent's professional capacity to perform tax agent services, and not matters of a personal nature. We are seeking further guidance from the TPB as to how these rules will be interpreted and applied to provide greater certainty for practitioners.

### **What we're doing – we've got your back**

CPA Australia, together with the other professional member associations, is seeking the withdrawal or disallowance of this Determination. We are engaging with the Government to seek amendments to the Determination, informed by proper consultation. This will reduce the confusion and impact on practitioners, provide sufficient time to respond to the changes, and address issues with those parts of the Determination which were not contained in the draft and not subject to consultation with the profession.

We are working to make the interpretation and implementation of the new requirements as straight forward and practical for our members as possible. As a member of the TPB Tax Practitioner Governance and Standards Forum, CPA Australia will be working with and supporting the TPB as they develop [guidance](#) for these new requirements.

Please contact us at [policy.advocacy@cpaaustralia.com.au](mailto:policy.advocacy@cpaaustralia.com.au) with any feedback or suggestions.

### **Resources for you**

We offer a range of resources for our public practitioners that can assist you run your practice in line with professional and regulatory requirements.

- Use our Quality Management tool for firms providing [non-assurance services](#) or [audit and assurance services](#) to help you meet your professional and regulatory obligations
- Brush up on your knowledge of [APES 320 Quality Management for Firms that provide Non-Assurance Services](#)
- Review the [Auditing ASQM 1 Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements](#) for guidance from the Auditing and Assurance Standards Board
- Check out our [My Firm My Future](#) resources including [compliance and governance](#) tools to support your practice.