

***Marked up version
(from ED)***

APES 220 Taxation Services

[Supersedes APES 220 Taxation Services issued in October 2007 and revised in March 2011 and October 2015]

Prepared and issued by
Accounting Professional & Ethical Standards Board Limited

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Conformity with International Pronouncements

Appendix 1: Summary of revisions to the previous APES 220 (Issued in October 2015)

1. Scope and application

- 1.1 The objectives of APES 220 *Taxation Services* are to specify a Member's professional and ethical obligations in respect of:
- fundamental responsibilities when the Member performs a Taxation Service for a Client or Employer;
 - preparation and lodgement of returns to Revenue Authorities;
 - association with tax schemes and arrangements;
 - the use of estimates;
 - false and misleading information;
 - professional Engagement matters;
 - Client Monies;
 - professional fees; and
 - documentation.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 220 *Taxation Services* (**the Standard**), which is effective from 1 October 2018 and supersedes APES 220 issued in October 2007 and revised in March 2011 and October 2015. Earlier adoption of this Standard is permitted.
- 1.3 APES 220 sets the standards for Members in the provision of quality and ethical Taxation Services. The mandatory requirements of this Standard are in **bold-type**, preceded or followed by discussion or explanations in normal type. APES 220 should be read in conjunction with other professional duties of Members, and any legal obligations that may apply.
- 1.4 **Members in Australia shall follow the mandatory requirements of APES 220 when they provide Taxation Services.**
- 1.5 **Members practising outside of Australia shall follow the provisions of APES 220 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.**
- 1.6 **Members shall be familiar with relevant Professional Standards and guidance notes when performing Professional Activities. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.7 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.8 All references to Professional Standards, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.9 In applying the requirements outlined in APES 220, Members should be guided not merely by the words but also by the spirit of this Standard and the Code.
- 1.10 In this Standard, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

2. Definitions

For the purpose of this Standard:

Assurance Engagement means an Engagement in which a Member in Public Practice aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the subject matter information (that is, the outcome of the measurement or evaluation of an underlying subject matter against criteria).

This includes an Engagement in accordance with the *Framework for Assurance Engagements* issued by the AUASB or in accordance with specific relevant standards, such as International Standards on Auditing, for Assurance Engagements.

AUASB means the Australian statutory body called the Auditing and Assurance Standards Board established under section 227A of the *Australian Securities and Investments Commission Act 2001*.

Client means an individual, firm, entity or organisation to whom or to which Professional Activities are provided by a Member in Public Practice in respect of Engagements of either a recurring or demand nature.

Client Monies means any monies (in whatever form) coming into the control of a Member in Public Practice or any of the Member's personnel which are the property of a Client and includes monies to which the Member or the Member's personnel have no present entitlement.

Code means APES 110 *Code of Ethics for Professional Accountants*.

Employer means an entity or person that employs, engages or contracts a Member in Business.

Engagement means an agreement, whether written or otherwise, between a Member in Public Practice and a Client relating to the provision of Professional Services by a Member in Public Practice. However, consultations with a prospective Client prior to such agreement are not part of an Engagement.

Firm means:

- (a) A sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) An entity that controls such parties, through ownership, management or other means;
- (c) An entity controlled by such parties, through ownership, management or other means; or
- (d) An Auditor-General's office or department.

Independence is:

- ~~(a) Independence of mind — the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgement, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism.~~
- ~~(b) Independence in appearance — the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a Firm's, or a Member's, integrity, objectivity or professional scepticism has been compromised. [SC8 – SC11](#)~~

Member means a member of a Professional Body that has adopted this Standard as applicable to their membership, as defined by that Professional Body.

Member in Business means a Member employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or professional bodies, or a Member contracted by such entities.

Member in Public Practice means a Member, irrespective of functional classification (e.g., audit, tax or consulting) in a Firm that provides Professional Services. This term is also used to refer to a Firm of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable Professional Body.

Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.

Professional Bodies means Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

Professional Services means Professional Activities performed for Clients.

Professional Standards means all standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable Professional Body.

Revenue Authorities include various levels of government authorities or similar institutions which have legislative powers to impose and/or collect taxes.

Taxation Law means law and/or regulation of any level of government imposing a tax or otherwise dealing with tax, and includes any such laws and regulations that describe direct and indirect taxes, levies, surcharges, penalties or similar charges imposed by various levels of governments or similar institutions on economic transactions.

Taxation Services means any Professional Activities performed by a Member relating to ascertaining a Client's or Employer's tax liabilities or entitlements or satisfying their obligations under a Taxation Law, provided under circumstances where they can reasonably expect to rely on the Professional Activities. This includes:

- (a) preparation of a return, notice, statement, application or other document for lodgement with a Revenue Authority, and responding on behalf of a Client or Employer to the Revenue Authority's requests for further information;
- (b) preparation of tax calculations to be used as the basis for the accounting entries in the financial statements;
- (c) provision of tax planning and other tax advisory services; and
- (d) assisting a Client or Employer in the resolution of tax disputes.

Those Charged with Governance means the person(s) or organisation(s) (for example, a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process. For some entities in some jurisdictions, Those Charged with Governance may include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager. ^{SC19}

Writing means a mode of representing or reproducing words in a visible form, and includes words in an electronic format capable of being converted to printed text.

3. Fundamental responsibilities of Members

3.1 Members providing Taxation Services shall at all times safeguard the interests of their Client or Employer provided that such services are delivered in accordance with Section 100 *Introduction and Fundamental Principles* of the Code and relevant law, including applicable Taxation Law.

Public interest

- 3.2 In accordance with Section 100 *Introduction and Fundamental Principles* of the Code, Members shall observe and comply with their public interest obligations when they provide Taxation Services.

Integrity and professional behaviour

- 3.3 In accordance with the fundamental principles of integrity and professional behaviour contained in the Code, Members providing Taxation Services shall ensure that their own personal tax obligations and those of any associated entities for which the Member is responsible are properly discharged.

Objectivity

- 3.4 When providing Taxation Services Members shall be objective in accordance with Section 120 *Objectivity* of the Code. They shall maintain an impartial attitude and recommend options that meet the Client's or Employer's interests consistent with the requirements of the law.

3.5 A Member may act as an advocate for a Client or Employer when representing or assisting them before the courts or ^{SC5} certain tribunals. However, a Member acting in such a capacity before any court or tribunal should ensure that the Client or Employer is aware that the Member has an obligation not to mislead the court or tribunal and to safeguard his or her professional objectivity.

~~3.5~~3.6 If a conflict of interest arises due to the Member being asked to act as an advocate for a Client or Employer before a court or tribunal in respect of Professional Activities the Member provided, the Member shall comply with Section 100 Introduction and Fundamental Principles of the Code and Section 220 Conflicts of Interest of the Code (for Members in Public Practice) or Section 310 Conflicts of Interest of the Code (for Members in Business).^{SC5}

~~Professional Independence~~ obligations^{SC8}

~~3.7~~6 When ~~engaged to perform a Taxation Service to a Client which requires Independence, a~~ a Member in Public Practice is providing Taxation Services to a Client and the Member's Firm is also engaged to conduct an Assurance Engagement for the same Client, the Member shall comply with Independence as defined in this Standard. ~~Section 290 Independence – Audit and Review Engagements (for audit Engagements) or Section 291 Independence – Other Assurance Engagements (for other Assurance Engagements) of the Code.~~ ^{SC6 - SC11}

~~3.7~~ A Member in Public Practice shall consider whether an Engagement, or a specific element of an Engagement, is an Assurance Engagement under the *Framework for Assurance Engagements* issued by the AUASB. ^{SC8 – SC12}

~~3.8~~ Where the Engagement is an Assurance Engagement, the Member in Public Practice shall comply with ~~Section 290 Independence – Audit and Review Engagements or Section 291 Independence – Other Assurance Engagements of the Code, as applicable.~~ ^{SC8 – SC12}

Confidentiality

~~3.8~~9 ~~In accordance with Section 140 Confidentiality of the Code, a~~ A Member who acquires confidential information in the course of performing a Taxation Service for a Client or Employer shall comply with Section 140 Confidentiality of the Code. ~~not~~

~~use that information for any purpose other than the proper performance of professional work for that Client or Employer.~~ [SC4](#), [SC13](#)

3.910 Unless the Member has a legal obligation of disclosure, a Member shall not convey any information relating to a Client's or Employer's affairs to a third party without the Client's or Employer's permission.

3.109 Where a Client has given a Member in Public Practice permission to disclose confidential information to a third party, it is preferable that this permission is in Writing. Where verbal permission is obtained, a contemporaneous note should be made and kept on file by the Member recording the relevant details of the Client's approval.

3.112 Unless the Member has a legal obligation of disclosure, a Member shall not furnish to the Revenue Authorities any opinions or written advice of a third party who is acting in a specialist capacity on specific aspects of the Engagement, without the prior knowledge and express consent of that third party.

3.132 Where a Member provides confidential information in accordance with a legal obligation of disclosure, the Member shall notify the Client, Employer or relevant third party as soon as practical, provided that there is no legal prohibition against such notification.

Professional competence and due care

3.134 Members engaged in providing Taxation Services shall maintain professional competence and take due care in the performance of their work in accordance with Section 130 *Professional Competence and Due Care* of the Code.

3.145 Competent Taxation Service requires the exercise of sound judgement in applying professional knowledge and skill in the performance of such Professional Activities. Due care imposes the obligation of acting diligently in accordance with applicable technical and Professional Standards when providing a Taxation Service.

3.156 Members should, therefore, refrain from performing any Taxation Services which they are not competent to carry out unless expert advice and assistance are obtained to ensure that the Professional Activities are performed to a standard agreed with the Client or Employer or as required by law.

3.167 If applicable to the Engagement, [SC15 Aa](#) Member should obtain an understanding of relevant foreign laws and regulations sufficient to enable the provision of competent Taxation Services. Where the Member does not have the necessary knowledge of the foreign laws and regulations, they should engage the services of an expert to ensure the Professional Activities are performed to the required standard.

3.178 A Member shall maintain open, frank and effective communications with a Client or Employer. In this regard:

- (a) where appropriate in the context of the Member's agreed scope of work, a Member shall advise a Client or Employer of both the Member's and the Client's or Employer's rights, obligations and options available under the Taxation Law. A Member shall also advise the Client or Employer of their rights or options available under Taxation Law with respect to the seeking of a private ruling and the lodging of objections and appeals against adverse positions adopted by the Revenue Authorities; and
- (b) in the context of Taxation Services requested, a Member shall advise a Client or Employer on the application of the Taxation Law, including any possible penalties and other legal tax consequence, so as to allow the Client or Employer to make an informed decision of the course of action to be taken.

- 3.1~~89~~** A Member in Public Practice shall provide a Client with a statement in Writing that:
- (a) the responsibility for the accuracy and completeness of the particulars and information provided by the Client rests with the Client;**
 - (b) any advice given to the Client is only an opinion based on the Member's knowledge of the Client's particular circumstances; and**
 - (c) a taxpayer has obligations under self-assessment to keep full and proper records in order to facilitate the preparation of accurate returns.**
- 3.1~~920~~** The communication of the matters in paragraph 3.1~~98~~ to the Client in Writing need not be in the form of a letter. For example, a standard format handout, brochure, leaflet or electronic communication is also acceptable.
- 3.2~~04~~** Where the application of the Taxation Law is not certain, a Member shall not represent to a Client or Employer that the results of a Taxation Service (such as the tax or other revenue returns which the Member prepares or assists in preparing, or the tax advice the Member offers) are beyond challenge.

4. Preparation and lodgement of returns to Revenue Authorities

- 4.1 A Member shall prepare and/or lodge returns and other relevant documents required to be lodged with a Revenue Authority in accordance with the information provided by a Client or Employer, their instructions, and the relevant Taxation Law.**
- 4.2** Where appropriate, a Member may accept a Client's or Employer's information and is not responsible for its veracity. However, within the agreed scope of work a Member should obtain information which is sufficient to allow the Member to form a view as to the application of the law to that information and to be able to recommend the options available to the Client or Employer on how the information provided by them may be reflected in the relevant return or another document to be lodged. Where a Member reasonably believes that the information provided by the Client or Employer may be incomplete, false or misleading, the Member should have regard to the provisions of paragraph 7.3 of this Standard and the law.
- 4.3 Where a Member in Public Practice provides a tax lodgement service to another party and a significant portion of the work associated with the revenue returns and other relevant documents is not performed under the supervision of the Member, the Member shall perform sufficient reviews of the revenue returns and other relevant documents in accordance with this Standard and the Code prior to lodgement of these revenue returns.**

5. Tax schemes and arrangements

- 5.1** The decision to enter into any tax scheme or arrangement will always be that of the Client or Employer.
- 5.2 Where appropriate, having regard to the Member's agreed scope of work, a Member shall give the Client or Employer sufficient information to enable the Client or Employer to be fully informed of the details of the scheme or arrangement and its current and future ramifications including the risks and uncertainties, particularly in relation to possible changes in Taxation Law.**
- 5.3 A Member shall not knowingly or recklessly be associated with any arrangement which involves documents or accounting entries that are intended to misrepresent a transaction or which depend upon lack of disclosure for its effectiveness.**

- 5.4 **A Member shall not promote, or assist in the promotion of, or otherwise, encourage any tax schemes or arrangements where the dominant purpose is to derive a tax benefit, and it is not reasonably arguable that the tax benefit is available under Taxation Law. Accordingly, a Member shall not provide advice on such a scheme or arrangement to a Client or Employer other than to advise that in the Member's opinion it is not effective at law.**
- 5.5 If a Member is uncertain that a tax scheme or arrangement is of the type set out in paragraph 5.4, the Member should consider:
- (a) consulting with the Client, ~~or~~ Employer, or Those Charged with Governance ~~or a Professional Body~~ ^{SC18}, as applicable;
 - (b) if necessary, consulting with an in-house legal counsel or obtaining independent legal advice; ~~and~~
 - (c) if necessary, and with the Client or Employer's consent, consulting with the applicable Revenue Authority; and ^{SC18}
 - ~~(e)~~ (d) documenting the substance of the tax scheme or arrangements and key matters considerations by the Member in ~~determining~~ assessing ^{SC17} whether the tax scheme or arrangement is not of the type set out in paragraph 5.4.
- 5.6 Paragraph 5.4 does not preclude a Member from advising a Client or Employer on the resolution of such matters and providing other Taxation Services.
- 5.7 Provided that the provisions of paragraphs 5.3 and 5.4 do not apply, a Member may otherwise provide Taxation Services to a Client or Employer who has entered into a tax scheme or arrangement.
- 5.8 **In respect of an entity that predominantly promotes tax schemes or arrangements, a Member shall not:**
- (a) have any financial interest in such an entity; or
 - (b) render any Professional Service to such an entity where the Member knows that the Member's immediate or close family has a financial interest.
- 6. Estimates**
- 6.1 **A Member shall not prepare or be associated with the preparation of returns or submissions to Revenue Authorities involving the use of estimates unless their use is generally accepted or under the circumstances, it is impracticable to obtain exact data.**
- 6.2 **When estimates are used, a Member shall present them in such a manner as to avoid the implication of greater accuracy than in fact exists.**
- 6.3 **A Member shall consider whether the use of an estimate is reasonable in the particular circumstance. Where a Member has reason to believe an estimate is not reasonable, the Member shall advise the Client or Employer of the risks and consequences of using the relevant estimate in the return or submission to be lodged with the Revenue Authorities.**
- 7. False or misleading information**
- 7.1 **A Member shall not provide a Taxation Service to a Client or Employer if the Member finds that information on which the Taxation Service is to be based contains false**

or misleading information or omits material information and the Client or Employer is not prepared to appropriately amend it.

7.2 **A Member shall not knowingly or recklessly make a statement or cause another to make a statement in or in connection with a Taxation Service that, by its content or by an omission, is false or misleading in a material manner.**

7.3 **Where a Member forms the view that a Taxation Service is based on false or misleading information or the omission of material information, the Member shall discuss the matter with the Client or Employer and advise them of the consequences if no action is taken.**

7.4 Where a Member finds that a Client or Employer has filed returns or submissions in previous years (with which the Member may or may not have been associated) that contain materially false or misleading information or omit material information, the Member should discuss the matter with the Client or Employer and advise them of their responsibilities.

7.5 In the event of a Member subsequently becoming aware that information previously provided to a Revenue Authority by the Member, which the Member had no reason to believe at the time to be incorrect, is false or misleading, the Member should recommend that the Client or Employer make an appropriate disclosure or, alternatively, the Member should obtain authority from them to make the disclosure on their behalf.

7.6 **A Member in Public Practice who**

(a) **knows that a Client or the Member on behalf of the Client has filed a return or submission materially understating a tax liability to a Revenue Authority, and**

(b) **finds the Client unwilling to correct such understatement,**

shall consider the Firm's policies and procedures established in accordance with *Acceptance and Continuance of Client Relationships and Specific Engagements of APES 320 Quality Control for Firms* in determining whether to continue acting for the Client in a professional capacity.

7.7 Where a Member in Business is faced with similar circumstances, the Member is referred to *Part C: Members in Business* of the Code.

7.8 **A Member who encounters or becomes aware of instances of non-compliance or suspected non-compliance with laws and regulations when providing Taxation Services shall comply with Section 225 *Responding to Non-Compliance with Laws and Regulations* (for Members in Public Practice) or Section 360 *Responding to Non-Compliance with Laws and Regulations* (for Members in Business) of the Code. ~~if they are aware of or suspect the Client or Employer has not complied with applicable laws and regulations.~~ ^{SC20}**

7.9 All references to false and misleading information in this section exclude information that is of an immaterial or inconsequential nature.

8. Professional Engagement matters

8.1 **A Member in Public Practice shall provide the Client with an appropriate statement in Writing outlining the relevant terms of the Engagement to provide the Taxation Service in accordance with APES 305 *Terms of Engagement*.**

8.2 The provision of this statement to the Client in Writing need not be in the form of a letter. For example, a standard format handout, brochure, leaflet or electronic communication is also acceptable.

- 8.3 **A Member in Public Practice who is approached by a potential Client to undertake a Taxation Service shall comply with the requirements of Section 210 *Professional Appointment* of the Code.**
- 8.4 **A Member in Public Practice who has utilised the services of a third party in connection with the performance of a Taxation Service, such as a legal opinion to support the provision of taxation advice, shall not disclose the relevant opinion or the name of that third party without the prior consent of that party.**
- 8.5 **A Member consulting with others in relation to a Client's or Employer's affairs shall observe the requirements of Section 140 *Confidentiality* of the Code.**
- 8.6 A Member in Public Practice should consider the guidance in APES GN 30 *Outsourced Services* if they engage, or outsource to, a third party either components or all aspects of the Taxation Service performed for the Client.

9. Client Monies

- 9.1 **A Member in Public Practice shall ensure prompt transmission of Client Monies received on behalf of a Client from Revenue Authorities to the Client in accordance with the requirements of APES 310 *Client Monies*.**
- 9.2 **A Member in Public Practice shall not use, withhold or otherwise appropriate tax refunds to settle the fees of the Member or for any other use in lieu of their transfer directly to the Client unless agreed to by the Client in Writing.**
- 9.3 **Where funds are to be banked by a Member in Public Practice on behalf of a Client, a Member shall use a separate bank account designated as a trust account and maintained in accordance with the requirements of APES 310 *Client Monies*.**

10. Professional fees

- 10.1 **A Member in Public Practice providing Taxation Services shall be remunerated for such services by way of professional fees computed in accordance with Section 240 *Fees and Other Types of Remuneration* of the Code.**

11. Documentation

- 11.1 **A Member shall prepare working papers in accordance with this Standard that appropriately document the work performed, including aspects of the Taxation Service that have been provided in Writing in accordance with this Standard, and the basis on which, and the method by which, any calculations, determinations or estimates used in the provision of the Taxation Service have been made.**
- 11.2 A Member should adopt appropriate procedures for maintaining the confidentiality and safe custody of working papers and for retaining them for a period sufficient to meet the needs of the Member and in accordance with legal requirements of record retention and privacy.
- 11.3 Nothing in this Standard precludes the storage of documentation in appropriate electronic formats. Members contemplating the use of electronic storage should consider the legal implications of such forms of storage, which may vary by jurisdiction, and seek appropriate advice in this context. Members should consider security and privacy risks over information stored electronically and adopt appropriate measures (such as the implementation of IT security controls including up-to-date security software) to address such risks.

Conformity with International Pronouncements

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 220.

Appendix 1

Summary of revisions to the previous APES 220 (Issued in October 2015)

APES 220 *Taxation Services* was originally issued in October 2007 and revised in March 2011 and October 2015. APES 220 has been revised by APESB in **June** 2018. A summary of the revisions is given in the table below.

Table of revisions*

| Paragraph affected | How affected |
|--|-----------------------|
| 1.2 | Amended |
| 2 – Definition of Assurance Engagement | Added |
| 2 – Definition of AUASB | Added |
| 2 – Definition of Client Monies | Amended |
| 2 – Definition of Employer | Amended |
| 2 – Definition of Independence | Added |
| 2 – Definition of Taxation Services | Amended |
| 2 – Definition of Those Charged with Governance | Added |
| 3.1 | Amended |
| 3.6 | Added |
| 3.7 | Added |
| 3.8 | Added |
| 3.98 – Paragraph 3.6 of existing standard relocated | Relocated |
| 3.940 – Paragraph 3.7 of existing standard relocated | Relocated |
| 3.104 – Paragraph 3.8 of existing standard relocated | Relocated |
| 3.112 – Paragraph 3.9 of existing standard relocated | Relocated |
| 3.123 – Paragraph 3.10 of existing standard relocated | Relocated |
| 3.134 – Paragraph 3.11 of existing standard relocated | Relocated |
| 3.145 – Paragraph 3.12 of existing standard relocated | Relocated |
| 3.156 – Paragraph 3.13 of existing standard relocated | Amended |
| 3.167 | Added |
| 3.178 – Paragraph 3.14 of existing standard relocated | Amended |
| 3.189 – Paragraph 3.15 of existing standard relocated | Relocated |
| 3.1920 – Paragraph 3.16 of existing standard relocated | Amended |
| 3.204 – Paragraph 3.17 of existing standard relocated | Amended |
| 4.2 | Amended |
| 5.5 | Added |
| 5.6 – Paragraph 5.5 of existing standard relocated | Relocated |
| 5.7 – Paragraph 5.6 of existing standard relocated | Relocated |
| 5.8 – Paragraph 5.7 of existing standard relocated | Amended |
| 7.8 | Added |
| 7.9 – Paragraph 7.8 of existing standard relocated | Relocated |
| 8.6 | Added |
| 9.1 | Amended |
| 9.3 | Amended |
| 11.2 | Amended |
| 11.3 | Amended |

* Refer Technical Update **2018/X**