

Comparison of the Tax Agent Services Bill 2009 Part 3 – The Code of Professional Conduct to APESB Pronouncements

Tax Agent Services Bill 2008 Part 3 – The Code of Professional Conduct	APES 220 Taxation Services	APES 110 Code of Ethics for Professional Accountants
<p>30-10(1) Must act honestly and with integrity.</p>	<p>3 <i>Fundamental responsibilities of Members.</i></p> <p>Requires services to be delivered in accordance with Section 100 of APES 110 and relevant Taxation Law.</p> <p>3.1</p> <p><i>Public Interest</i></p> <p>3.2</p> <p>Members shall comply with their public interest obligations.</p> <p><i>Estimates</i></p> <p>6</p> <p>Members shall not be associated with estimates that may be misleading.</p> <p><i>False or misleading information</i></p> <p>7</p> <p>Members shall not be associated with false or misleading information.</p>	<p>110 Integrity</p> <p>120 Objectivity</p> <p>150 Professional Behaviour</p> <p>280 Objectivity All Services</p>
<p>30-10(2) Must comply with taxation law in the conduct of personal affairs.</p>	<p>3.3 <i>Integrity and professional behaviour</i></p> <p>Shall ensure that the Member’s personal tax obligations and those of any associated entities for which the Member is responsible are properly discharged.</p>	<p>100 Fundamental Principles</p> <p>150 Professional Behaviour</p>
<p>30-10(3) If you receive money or other property from or on behalf of a client and you hold the money or other property on trust, you must account to your client for the money or other property.</p>	<p>9 <i>Client Monies</i></p> <p>APES 220 is more detailed in relation to client monies. Professional obligations such as prompt transmission of monies, use and maintenance of separate bank accounts and appropriate use of tax refunds are addressed</p>	<p>100 Fundamental Principles</p> <p>150 Professional Behaviour</p> <p>270 Custody of Client Assets</p>

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	<p>(Paragraphs 9.1 – 9.3).</p> <p>Further, Members of the professional accounting bodies who are in public practice will be subject to APS 10 and GN 3 dealing with Trust Accounts.</p>	
<p>30-10(4) Must act lawfully in the best interests of your client.</p>	<p>3 <i>Fundamental responsibilities</i></p> <p>3.1 Safeguard the interests of the client provided services are delivered in accordance with Section 100 of APES 110 and relevant Taxation Law.</p> <p>3.4 Recommend options that meet client’s interests consistent with the requirements of the law.</p> <p><i>Professional competence and due care</i></p> <p>3.14 Advise clients of rights, obligations and options under Taxation Law.</p> <p><i>Preparation and lodgment of returns</i></p> <p>4 Lodge documents in accordance with information provided by a client, their instructions and the relevant Taxation Law.</p> <p><i>Tax schemes and arrangements</i></p> <p>5 A Member shall give the client or employer sufficient information to be fully informed of the details of a scheme, its current and future ramifications, particularly in relation to possible changes in taxation law.</p> <p>5.2 A Member shall not promote any tax schemes</p>	<p>100 Fundamental Principles</p> <p>150 Professional Behaviour</p>

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	<p>5.4 where the dominant purpose is to derive a tax benefit that is not available under taxation law. Where this is the case, the Member shall not provide advice except that it is not effective at law.</p> <p><i>False or misleading information</i></p> <p>Members shall not deal or be associated with false or misleading information.</p> <p>7</p>	
<p>30-10(5) Must have in place adequate arrangements for the management of conflicts of interest that may arise in relation to the activities that you undertake in the capacity of a registered tax agent or BAS agent.</p>	<p>No specific paragraph. However, the following sections provide requirements and guidance for the most common situations where conflicts arise in Taxation Services.</p> <p><i>Confidentiality</i></p> <p>3.6 -3.10</p> <p><i>Professional Competence and due care</i></p> <p>3.11 – 3.17</p> <p><i>Tax Schemes and arrangements</i></p> <p>5</p> <p><i>Estimates</i></p> <p>6</p> <p><i>False or misleading information</i></p> <p>7</p> <p><i>Professional engagement matters</i></p> <p>8</p>	<p>100.5 Conceptual framework approach. Requires a Member to identify, evaluate and address threats to compliance with the fundamental principles.</p> <p>210 Professional appointment</p> <p>220 Conflicts of Interest</p> <p>240 Professional Fees</p>
<p>30-10(6) Unless you have a legal duty to do so, you must not disclose any information relating to client’s affairs to a third party without your client’s permission.</p>	<p>3.7 Confidentiality – unless there is a legal obligation to do so, information relating to a client’s or employers affairs shall not be communicated to a third party without the client’s or employer’s permission.</p>	<p>140 Confidentiality</p>

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30-10(7) Must ensure that a tax agent service that you provide, or that is provided on your behalf, is provided competently.	<p>3.11 – 3.17 <i>Professional competence and due care</i></p> <p>Members shall maintain professional competence and take due care in the performance of their work in accordance with Section 130 <i>Professional Competence and Due Care</i> of the Code.</p> <p>4.3 Where work associated with revenue returns is not performed under the supervision of the Member, the Member shall perform sufficient reviews prior to the lodgment of the returns.</p>	130 Professional competence and due care
30-10(8) Must maintain knowledge and skills relevant to the tax agent services you provide.	3.11 – 3.17 <i>Professional competence and due care</i>	130 Professional competence and due care Refers to the attainment and maintenance of professional competence.
30-10(9) Must take reasonable care in ascertaining a client’s state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement you are making or a thing you are doing on behalf of the client.	<p>3.11 – 3.17 <i>Professional competence and due care</i></p> <p>4 <i>Preparation and lodgment of returns to Revenue Authorities.</i></p> <p>4.2 States that a Member is not responsible for the veracity of information. However, a Member should sufficient information to form a view as to the application of the law to that information.</p> <p><i>Tax schemes and arrangements</i></p> <p>5</p> <p>5.2 A Member shall give the client or employer sufficient information to be fully informed of the details of a scheme, its current and future ramifications, particularly in relation to possible changes in Taxation Law.</p> <p>A Member shall not knowingly or recklessly</p>	130 Professional competence and due care

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	<p>5.3 be associated with any arrangement which involves entries that are intended to misrepresent a transaction.</p> <p><i>False or misleading information</i></p> <p>7 Also Members in public practice are subject to quality control requirements of APES 320 <i>Quality Control for Firms.</i></p>	
<p>30-10(10) Must take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client.</p>	<p>3.4 <i>Objectivity</i></p> <p>Members shall maintain an impartial attitude and recommend options that meet the Client’s or Employer’s interest consistent with the requirements of the law.</p> <p><i>Professional competence and due care</i></p> <p>3.11-3.17 As per paragraph 3.14, Members shall maintain open, frank and effective communications with a client or employer when providing advice in relation to rights, obligations and options under taxation law and the application of taxation law.</p> <p><i>Preparation and lodgment of returns to Revenue Authorities</i></p> <p>4 Members shall prepare and lodge returns in accordance with information provided, client instructions and relevant taxation law.</p> <p><i>Tax schemes and arrangements</i></p> <p>5 Where the dominant purpose is to derive a tax benefit which is not reasonably arguable under taxation law, the Member shall not provide</p>	<p>130 Professional competence and due care</p> <p>150 Professional behaviour</p>

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	<p>advice except that it is not effective at law.</p> <p><i>False or misleading information</i></p> <p>Members shall not be associated with false or misleading information.</p> <p>7</p>		
<p>30-10(11) Must not knowingly obstruct the proper administration of the taxation laws.</p>	<p>3.2 <i>Public interest</i></p> <p>Members shall comply with their public interest obligations when they provide Taxation Services.</p> <p>4 <i>Preparation and lodgment of returns</i></p> <p>Members shall prepare and lodge returns in accordance with information provided, client instructions and the relevant taxation law.</p> <p>5.4 <i>Tax schemes and arrangements</i></p> <p>The Member shall not promote or encourage 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.</p> <p><i>Estimates</i></p> <p>6 Members shall not be associated with estimates that may be misleading.</p> <p><i>False or misleading information</i></p> <p>7 Members shall not be associated with false or</p>	<p>100 Fundamental principles</p> <p>110 Integrity</p> <p>150 Professional behaviour</p> <p>220 Conflicts of interests</p> <p>280 Objectivity All Services</p>	

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<p>30-10(12) Must advise clients of the client’s rights and obligations under the taxation laws that are materially related to the tax agent services you provide.</p>	<p>misleading information.</p> <p>3.14 <i>Professional competence and due care</i></p> <p>Members shall maintain open, frank and effective communications with a client or employer when providing advice in relation to rights, obligations and options under taxation law and the application of taxation law.</p> <p>5.2 <i>Tax schemes and arrangements</i></p> <p>Member shall give sufficient information to the client or employer to enable the client or employer to be fully informed of current and future ramifications of tax schemes or arrangements.</p> <p>7 <i>False or misleading information</i></p> <p>Members shall not be associated with false or misleading information. Where the Member identifies that this is an issue they need to inform the Client or Employer.</p>	<p>130 Professional competence and due care</p> <p>150 Professional behaviour</p>
<p>30-10(13) Must maintain professional indemnity insurance the Board requires to be maintained</p>	<p>No specific paragraph in APES 220.</p> <p>However, APES 305 Terms of Engagement paragraph 6.1 and 6.2 addresses this in terms of the Professional Standards Legislation.</p> <p>Further, it is a requirement for Members of the three professional accounting bodies who are in public practice to hold professional indemnity insurance.</p>	<p>150 Professional behaviour</p>
<p>30-10(14) Must respond to requests and</p>	<p>1.6 <i>Scope and application</i></p>	<p>110 Integrity</p>

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	directions from the Board in a timely, responsible and reasonable manner.		Responsibilities which may be imposed by law.	140 150	Confidentiality Professional behaviour
Subdivision 30-B	Your liability for administrative sanctions		APESB is an independent body that sets professional and ethical standards for the accounting profession. The disciplinary processes for non-compliance with such standards are administered by the professional accounting bodies under their respective quality review programs.		
Subdivision 30-C	Notifying a change of circumstances	1.6	<i>Scope and application</i> Responsibilities which may be imposed by law.	150	Professional behaviour. The principle of professional behaviour imposes an obligation on Members to comply with relevant laws and regulations.