



## **Annual Review of APES 220 *Taxation Services***

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## **1. Executive Summary**

### **1.1. Background**

The Accounting Professional and Ethical Standards Board (APESB) issued APES 220 *Taxation Services* in December 2007 with an effective date of 1 July 2008. APES 220 replaced APS 6 *Statement of Taxation Standards*.

### **1.2. Reason for this report**

In accordance with the constitution of the APESB, a review needs to be performed twelve months after a new standard is effective. This report presents a review of the issues reported to the APESB and a proposed course of action to address the issues.

### **1.3. Issue identified**

The *Tax Agent Services Act 2009* (the Act) received Royal Assent on 26 March 2009 and is operative from 1 January 2010. The Act includes a Code of Conduct that will govern the members of the three professional accounting bodies who are registered tax agents or BAS agents. Members of the three accounting bodies are also bound by APES 110 *Code of Ethics for Professional Accountants* (APES 110) and APES 220 *Taxation Services* (APES 220).

The Act uses the term “reasonable care” which is currently undefined. This raises the question of whether the Act creates additional obligations that have not been addressed in professional standards.

### **1.4. Recommendation**

It is recommended that:

1. APESB monitor the National Tax Practitioners Board work program and developments in relation to the definition of “reasonable care” and dependent on the deliberation of that Board consider any future amendments to APES 220.

## 2 **Review of Issue**

### 2.1 **Use of the term “reasonable care” in the *Tax Agents Services Act 2009***

#### **Issue**

Use of the term “reasonable care” in the Act potentially introduces a more stringent approach than is currently required by APESB pronouncements.

#### **Analysis of the issue**

The following extracts show the two instances where the Act uses the term “reasonable care”:

Part 3 30-10(9) You 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

Part 3 30-10(10) You 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.

The term “reasonable care” has not been defined in the Act which raises the issue of what constitutes “reasonable care”. Whilst use of the term “reasonable care” under the Act does not contradict the requirements of APESB pronouncements, whether it constitutes a more stringent approach is not clear.

A recently established National Tax Practitioners Board (NTPB) will have primary responsibility for the oversight and regulation of the tax agent profession from 1 January 2010. It is expected that NTPB will consider the need to define “reasonable care” as part of their work program.

#### **Impacted Stakeholders**

Members of the professional accounting bodies who are involved in providing taxation services.

#### **Recommendation**

APESB continue to monitor the NTPB work program and developments in relation to the definition of “reasonable care” and dependent on the deliberation of that Board consider any future amendments to APES 220.