

Technical Update 2019/3

31 July 2019

APESB issues revised APES 220 *Taxation Services*

Accounting Professional & Ethical Standards Board Limited (APESB) today announced the issue of the revised APES 220 *Taxation Services* (APES 220) to replace the existing APES 220 (Issued July 2018).

The key changes in the revised APES 220 are due to revisions to reflect the restructured APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)*, issued in November 2018.

Please refer to Appendix 1 of this technical update for details of all the revisions. The revised APES 220 will be effective for Taxation Services commencing on or after 1 January 2020 with early adoption permitted.

APESB has incorporated the following interactive PDF features within the revised APES 220:

- Bookmark tab section for contents page;
- Dynamic links to sections and paragraphs;
- Pop-up definitions upon mouse rollover for defined terms; and
- Links to external websites.

The revised standard is available from APESB's website: www.apesb.org.au

- ENDS -

Technical Enquiries:

Mr. Channa Wijesinghe
Chief Executive Officer
Email: channa.wijesinghe@apesb.org.au
Phone: 03 9642 4372

Appendix 1

Revision to APES 220 (Issued July 2018)

Accounting Professional & Ethical Standards Board Limited (APESB) has approved the following revisions to APES 220 *Taxation Services* which was originally issued in October 2007 and revised in March 2011, October 2015 and July 2018.

Paragraph Reference	Revisions
1.2	Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 220 <i>Taxation Services</i> (the Standard), which is effective from <u>1 October 2018</u> <u>January 2020</u> and supersedes APES 220 issued in <u>October 2015</u> <u>July 2018</u> . Earlier adoption of this Standard is permitted.
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 comply with relevant other applicable Professional Standards and be familiar with relevant guidance notes when performing Professional Activities. All Members shall comply with the fundamental principles outlined in the Code.
2	<u>Defined terms are shown in the body of the Standard in title case.</u> For the purpose of this Standard:
2	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 <i>Framework for Assurance Engagements</i> issued by the AUASB or in accordance with specific relevant standards, such as International Standards on Auditing, for Assurance Engagements. <u>(For guidance on Assurance Engagements, see the <i>Framework for Assurance Engagements</i> issued by the AUASB. The <i>Framework for Assurance Engagements</i> describes the elements and objectives of an Assurance Engagement and identifies Engagements to which Australian Auditing Standards (ASAs), Standards on Review Engagements (ASREs) and Standards on Assurance Engagements (ASAEs) apply.)</u>
2	Code means APES 110 <i>Code of Ethics for Professional Accountants (including Independence Standards)</i> .
2	Member in Business means a Member <u>employed or engaged working in an executive or non-executive capacity in such areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory bodies or professional bodies, who might be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer, or a Member contracted by such entities.</u>

Paragraph Reference	Revisions
2	Member in Public Practice means a Member, irrespective of functional classification (e.g. <u>for example</u> , 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.
2	Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.
2	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 <u>may</u> <u>might</u> include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager.
2	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.
3.1	Members <u>A Member</u> providing Taxation Services shall at all times safeguard the interests of their Client or Employer provided that such services are delivered in accordance with <u>Section 100 Introduction and Fundamental Principles Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework</u> of the Code and relevant law, including applicable Taxation Law.
3.2	In accordance with <u>Section 100 Introduction and Fundamental Principles Complying with the Code</u> of the Code, Members <u>a Member</u> shall observe and comply with <u>their the Member's</u> public interest obligations when they provide Taxation Services.
3.3	In accordance with the fundamental principles of integrity and professional behaviour contained in the Code, Members <u>a Member</u> 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.
3.4	When providing Taxation Services Members <u>a Member</u> shall be objective in accordance with <u>Section 120 Subsection 112 Objectivity of the Code</u> . They <u>A Member</u> shall maintain an impartial attitude and recommend options that meet the Client's or Employer's interests consistent with the requirements of the law.
3.6	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 <u>Section 100 Introduction and Fundamental Principles Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework</u> and <u>Section 220 210 Conflicts of Interest</u> (for Members in Public Practice Business) or <u>Section 310 Conflicts of Interest</u> (for Members in Business Public Practice) of the Code.

Paragraph Reference	Revisions
3.7	<p>When 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 Section 290 Part 4A Independence –for Audit and Review Engagements (for audit Engagements) or Section 294 Part 4B Independence –for Other Assurance Engagements Other than Audit and Review Engagements (for other Assurance Engagements) of the Code, as applicable.</p>
3.8	<p>A Member who acquires confidential information in the course of performing a Taxation Service for a Client or Employer shall comply with <u>Section 140 Subsection 114 Confidentiality</u> of the Code.</p>
3.9	<p>Unless the Member has a <u>legal, regulatory or professional</u> 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.</p>
3.10	<p>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 <u>verbal oral</u> 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.</p>
3.11	<p>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 <u>Engagement Professional Activity</u>, without the prior knowledge and express consent of that third party.</p>
3.12	<p>Where a Member provides confidential information in accordance with a <u>legal, regulatory or professional</u> 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.</p>
3.13	<p><u>Members A Member</u> engaged in providing a Taxation Services shall maintain professional competence and take due care in the performance of <u>their the Member's</u> work in accordance with <u>Section 130 Subsection 113 Professional Competence and Due Care</u> of the Code.</p>
5.4	<p>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 Law¹. 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.</p>
Footnote 1	<p><u>Members should consider applicable legal precedents, in addition to the laws and regulations relating to the promoter penalty regime in Division 290 of Schedule 1 to the Taxation Administration Act 1953.</u></p>

Paragraph Reference	Revisions
7.7	Where a Member in Business is faced with similar circumstances, the Member is referred to Part G- 2 <i>Members in Business (including employment relationships of Members in Public Practice)</i> 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 <u>260</u> Responding to Non-Compliance with Laws and Regulations (for Members in Public Practice <u>Business</u>) or Section 360 Responding to Non-Compliance with Laws and Regulations (for Members in Business <u>Public Practice</u>) of the Code.
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 <u>320</u> Professional Appointments of the Code.
8.5	A Member consulting with others in relation to a Client's or Employer's affairs shall observe the requirements of Section 140 Subsection 114 Confidentiality of the Code.
10.1	A Member in Public Practice providing Taxation Services shall be remunerated for such Professional Services by way of professional fees computed in accordance with Section 240 <u>330</u> Fees and Other Types of Remuneration of the Code.
Appendix 1	Summary of revisions to the previous APES 220 (Issued in July 2018) – amended