64 | Code of Professional Conduct

The Code of Professional Conduct lists the ethical and professional standards for tax practitioners. They are the guiding principles for our work. Falling short of these can have serious consequences. So knowing a thing or two about the code is vital.

Code of Professional Conduct

Part 3 of the Tax Agent Services Act 2009 lists the Code of Professional Conduct. It is written in plain English and quite readable in comparison to other parts of our tax legislation – think FBT Act.

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Standards

The Code lists 14 ethical and professional standards organised in 5 separate categories. They are the same for all tax practitioners. So they apply to BAS and tax agents as much as to tax financial advisers.

Honesty and integrity

(1) act honestly and with integrity, (2) comply with the taxation laws in your personal affairs and (3) account for money or other property you receive on trust

Independence

(4) act lawfully in the best interests of your client and (5) adequately manage conflicts of interest

Confidentiality

(6) don’t disclose any information about a client unless you have a legal duty to do so

Competence

(7) provide a competent tax agent service, (8) maintain knowledge and skills, (9) take reasonable care in ascertaining a client’s state of affairs and (10) take reasonable care to ensure that taxation laws are applied correctly

Other responsibilities
(11) don't knowingly obstruct the proper administration of the taxation laws. (12) advise clients of their rights and obligations under the taxation laws, (13) maintain the professional indemnity insurance and (14) respond to requests and directions from the Board in a timely, responsible and reasonable manner.

Complaints

The Tax Practitioners Board receives about 1,600 complaints a year that relate to a violation of the Code of Professional Conduct. The TPB investigates them all.

Most of these complaints come from members of the public, usually a client. About 10% come from the ATO. And another 10% come from other registered tax practitioners, usually when a newly appointed agent reviews work previously done by another agent and finds fault.

In terms of compliance cases, most cases (63%) relate to tax practitioners failing to respond to requests and directions from the Board in a timely, responsible and reasonable manner – this is code item 14. That usually gives the TPB no other option but to terminate the registration.

Beyond this most of the other complaints relate to (3) trust accounts under honesty and integrity, (4) and (5) under independence, (6) confidentiality of client data and taking reasonable care under competence (8) and (9).

Findings

The three common outcomes after investigating a complaint are that either the TPB finds no breach (about 14% of cases) or finds a breach and either orders additional education (about 1/3 of cases) or the investigation results in the surrender of the licence (about 27% of cases).

Commercial Disputes

The TPB does not get involved in fee disputes. That is a commercial matter between the client and the practitioner.

No Award of Loss

The TPB can't issue an award for financial loss a client might have suffered. The practitioner should have professional insurance that would cover such a loss.

Ban

ASIC can issue a lifetime banning order. The TPB on the other hand can only issue a banning order for up to 5 years. After that the practitioner can re-apply to register.

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