



Australian Government



TAX PRACTITIONERS BOARD

TAX PRACTITIONERS BOARD

Presented by:
Matthew Addison
Tax Practitioners Board

Australian Business Software Industry Association Conference



What we might talk about

- What if.....
- Compliance with Technical is not enough
- The Law: Tax Agent Services Act
- Software providers – do you need to register?
- Software providers – what if you did register?
- Standard Business Reporting
- Confidentiality of client information
- Authentication & Authorisation



WHAT IF.....

- Software has been sold to a business
- That business enters some information
- Following software “how to” processes
- They push the “Lodge” button
- The information received by the ATO is **WRONG**
- ATO Compliance action results in costs and penalties
- Business complains about the Software



WHAT IF.....

What the TPB must investigate

- Are you a third party that is being relied on?
- Did you “represent” to the Commissioner?

- Did you take “Reasonable Care”?
..... In the thing you are doing



THE TAX AGENT SERVICES ACT 2009

- TPB: An independent statutory body (separate to the ATO)
- Protect consumers receiving tax services
 - From unregistered practitioners
 - Behaviour of registered practitioners
- Ensure tax practitioners have the necessary skills, experience and personal attributes



#1: Representation.....

Being Discussed

- Information

VS

- Submission of a “Form” as data
- Not a Volume or size discussion
- Status of the transmission
 - Govt – information is NOT a lodgment

CONCEPT



#2: SWD are not Registered

Current Trend

- SWD are not required to register

Position

Is the client reasonably expected to rely on the service to:

- satisfy liabilities or obligations that arise, or could arise, under a taxation law; or
- claim entitlements that arise, or could arise, under a taxation law?



WHO MUST REGISTER WITH THE TPB?

- Any entity that provides a tax agent service (including a BAS service) for a fee or other reward.
- Tax agent services relate to:
 - ascertaining or advising about liabilities, obligations or entitlements of an entity that arise, or could arise, under a tax law
 - representing an entity in their dealings with the ATO
 - advice that an entity can reasonably be expected to rely upon.



REPRESENTATIONS WITH THE ATO

Dealing with the ATO on behalf of an entity:

- lodging tax returns, notices, statements, applications
- lodging objections against an assessment, determination, notice or decision.



SOFTWARE PROVIDERS

- To avoid having to register with the TPB, software providers must have appropriate procedures/processes in place within their software to ensure that they are not regarded as providing a tax agent service (which includes a BAS service).
- TPB(I) 9/2011 – updated July 2015



AVOIDING THE NEED TO REGISTER

- Agent / Software must present the client (or an authorised person) with:
 - the data that has been obtained, calculated and collated into the relevant form that will be transmitted to the ATO
 - an opportunity to review the data about to be transmitted
 - a mechanism to verify the correctness and appropriateness of that data for transmission.
- Agent / Software must retain evidence of the verification.



ATO Cloud Software Authentication & Authorisation

- Requires a Declaration process
- Option: Ultimately software provider clients need to be aware that the software provider is simply being the transmitter of data to the ATO and not the provider of a tax agent service.
- Transmit Agent numbers



Technical Spec is not ALL the Spec

- Adhering to the ATO Technical Spec on
 - How to deliver
 - What to deliver
- Is NOT your only concern
- Your clients (Agents) are relying on you to provide them with a compliant process
- How do we get the Agents to know and adhere to a compliant process?



“Approval” of software developers

- Technical transmission mechanism is not TPB concern
- Business Process to compile the data IS
- Authorisation to transmit IS
- Presentation of the data IS



#3 If you were “Registered” / “Approved”

- Apply the code of conduct to you
- (7) You must ensure that a *tax agent service that you provide, or that is provided on your behalf, is provided competently.
- (8) You must maintain knowledge and skills relevant to the *tax agent services that you provide.

CONCEPT



#3 If you were “Registered” / “Approved”

- Apply the code of conduct to you
- (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.

CONCEPT



#4 CONFIDENTIALITY OF CLIENT INFORMATION

- TPB(I) 21/2014
- Registered tax practitioners may only disclose information relating to a client's affairs to a third party if:
 - they have the client's permission: or
 - there is a legal duty to do so.
- Otherwise, tax practitioners must obtain client's permission prior to disclosure to a third party.



#4 CONFIDENTIALITY OF CLIENT INFORMATION

- A third party is any entity other than the registered tax practitioner and their client, including:
 - cloud storage
 - outsourced services.



Conclusion

- #1: Representation
- #2: SWD not registered – Authentication Doc.
- #3: “Approval”
- #4: Confidentiality



MORE INFORMATION

For more information:

- visit tpb.gov.au
- read TPB eNews. Subscribe at www.tpb.gov.au/newsroom

