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21 April 2026

The Treasury
Legal Policy Unit

Via email: taxadministrationconsultation@treasury.gov.au

To Whom It May Concern,

Re: Treasury Laws Amendment Bill 2026: Enhancing TPB Sanctions Framework

Digital Service Providers Australia New Zealand (DSPANZ) welcomes the opportunity to provide this submission in response to the exposure draft materials for the *Treasury Laws Amendment Bill 2026: Enhancing TPB Sanctions Framework*. This submission is made on behalf of the digital service provider community perspective represented by DSPANZ and its members.

DSPANZ is the peak body representing the business software and digital service provider sector across Australia and Aotearoa New Zealand. Our members include a broad range of software providers, platforms and technology businesses that support tax, payroll, accounting, reporting and related digital compliance functions across the economy.

DSPANZ supports the policy objective of the Bill. Measures that deter misconduct by both unregistered preparers and registered practitioners, and strengthen public confidence in the tax profession, are important and warranted.

At the same time, DSPANZ considers it important that the sanctions framework be applied in a manner that is clear, proportionate and fit for a contemporary digital operating environment.

As our submission explains, longstanding distinctions between regulated professional services and software tools are becoming increasingly difficult to apply in practice, particularly where modern platforms incorporate automation, embedded workflows, analytics and AI-assisted functionality.

The central concern raised in our submission is not with the policy intent of the Bill, but with the continued reliance on legislative concepts that were developed in an earlier technological context.

In DSPANZ's view, there is now a strong case for Government to provide greater certainty as to the circumstances in which the supply of software, automation or AI-enabled functionality does, and does not, constitute the provision of a tax agent service or BAS service.

Clarity is increasingly important given the more significant criminal, civil and administrative consequences contemplated by the Bill.

In summary, DSPANZ submits that the reform package should be accompanied by:

1. legislation or binding interpretive guidance that clearly identifies the boundary between regulated services and the supply of software tools;
2. practical guidance on responsibility for AI-assisted outputs used by registered practitioners;
3. improved supporting infrastructure, including a more usable and machine-readable TPB register;
4. an appropriate implementation and transition approach for DSP-relevant impacts; and
5. continued structured engagement between Treasury, the TPB, the ATO and the DSP sector as these settings evolve.

DSPANZ and its members have a strong interest in ensuring that Australia's tax and compliance ecosystem remains both trusted and innovative. We would welcome the opportunity to engage further with the Treasury on the matters raised in this submission.

DSPANZ members welcome the opportunity to continue engaging with the Treasury, Tax Practitioners Board and Australian Taxation Office on these issues. Please contact us at hello@dspanz.org for more information.

Yours sincerely,

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Introduction and context

Digital Service Providers (DSPs) have long maintained a clear and consistent position: **DSPs do not provide tax agent services or BAS services to taxpayers within the scope of the *Tax Agent Services Act 2009* (TAS Act)**. DSPs develop and operate software tools that are *used* by taxpayers (for their own affairs) and by registered tax and BAS agents (in the course of providing registered services to their clients).

This position has underpinned the Australian Taxation Office's Standard Business Reporting (SBR) ecosystem, Single Touch Payroll (STP), the Practitioner Lodgement Service (PLS), and the emerging e-invoicing infrastructure. It has enabled Australia to build one of the most digitally mature tax administrations in the world.

However, the pace of product innovation — increasingly automated workflows, machine-learning categorisation, generative-AI assistants, embedded advisory prompts, auto-BAS preparation, real-time reconciliation, and AI-driven substantiation — is rapidly eroding the clarity of the boundary between "a tool" and "a service".

The Exposure Draft of the *Treasury Laws Amendment Bill 2026: Enhancing TPB Sanctions Framework* (the Bill) significantly sharpens the consequences of crossing that boundary by introducing criminal offences, materially higher civil penalties, infringement notices, enforceable undertakings, and contingent and interim suspensions

DSPs support the policy objectives of the Bill — stronger deterrence of misconduct by unregistered preparers and registered practitioners, and restoration of community confidence in the tax profession following the PwC matter.

This submission does **not** oppose the Bill. It asks Government to use this reform opportunity to provide **absolute clarity** on the definitions of a "tax agent service" and a "BAS service" in a manner that is fit for a *digital-by-default, AI-supported future*, and to ensure that the expanded sanctions regime does not inadvertently capture legitimate software products or chill innovation in Australia's regtech and accounting-tech sectors.

The core concern: the definition is not fit for a digital present or an AI enabled future

Sections 90-5 and 90-10 of the TAS Act define "tax agent service" and "BAS service" by reference to services provided "in circumstances where the entity can reasonably be expected to rely on the service" to satisfy tax obligations or claim entitlements. These definitions were drafted in a pre-cloud, pre-API, pre-AI era. In 2026, the following product capabilities — all delivered as software features — blur the definitional line:

- Automated general ledger coding and GST classification by machine-learning models.
- "One-click" BAS preparation and lodgement flows.
- Generative-AI copilots that answer natural-language tax questions inside accounting software.
- Automated depreciation, instant asset write-off and R&D prompts.
- Suggested deductions, substantiation prompts and audit-risk scoring.
- Automated STP and superannuation calculations with in-product compliance nudges.
- Embedded bookkeeper/advisor marketplaces that connect SMEs to human specialists.

Each of these features is designed to *help the user* — a taxpayer or a registered agent — make better, faster, more accurate decisions.

None is intended to *replace* the professional judgment of a registered tax or BAS agent.

Yet under a strict reading of the existing definitions, combined with the new criminal offences in the Bill (up to **40 months imprisonment or 200 penalty units, or both**, with strict liability on the "for a fee" element), there is credible legal uncertainty as to whether a subscription-funded AI feature could be characterised as the provision of a tax agent or BAS service by the DSP itself.

Request 1: Government should use this Bill (or a companion instrument) to modernise the definitions in sections 90-5 and 90-10, or issue binding interpretive guidance, to expressly confirm that:

- the *supply of software, automation, analytics or AI features* used by a taxpayer or registered agent to form their own view of their affairs is **not** the provision of a tax agent service or BAS service by the software provider;
- the reliance test in sections 90-5/90-10 requires reliance on a *person* exercising professional judgment, not reliance on the outputs of a general-purpose tool;
- software providers do not "represent" themselves as registered agents merely by marketing tax-adjacent functionality (e.g. "prepare your BAS", "lodge STP", "AI-assisted GST coding");
- the strict-liability fee element does not apply to ordinary SaaS subscription revenue where the DSP is not the decision-maker.

Without this clarity, the criminal offences in the Bill create a *chilling effect* on legitimate innovation, disproportionately exposing Australian-headquartered DSPs and deterring offshore entrants from investing in AU-specific product development.

Specific concerns, challenges and risks

Unintended capture of DSPs as "unregistered preparers"

The Bill introduces criminal offences for any entity that, without being registered, provides tax agent or BAS services *for a fee*, advertises such services, or represents itself as registered. Strict liability applies to the fee element.

- **Feature creep into services**: AI copilots, auto-BAS flows, suggested-deduction engines and embedded advisory prompts could be characterised as services under an expansive reading of s90-5/90-10.
- **Subscription = "fee"**: Because strict liability applies to receiving a fee, ordinary SaaS revenue may satisfy the physical element without any intent by the DSP.
- **Marketing risk**: Standard industry phrasing ("prepare and lodge your BAS", "your tax hub", "AI-powered tax assistant") could be re-interpreted as "advertising tax agent services" or "representing as registered".
- **Localisation risk**: Global DSPs localising US/UK marketing copy into Australia face heightened risk without clear Australian safe-harbour guidance.

Significant Global Entity (SGE) penalty exposure

Maximum civil penalties rise to **2,500 penalty units for individuals and 50,000 penalty units for bodies corporate and SGEs**, with SGE classification extending to partnerships and trusts regardless of legal form. Most tier-1 DSPs meet the **A$1 billion global income** SGE threshold.

- At the current penalty-unit value, a single contravention could exceed **A$16 million**, multiplied across contraventions.
- Global parent revenue drags Australian subsidiaries into the top penalty tier even where the Australian operation is modest.
- This asymmetry creates a significant competitive distortion between tier-1 DSPs and smaller domestic entrants for identical conduct.

Downstream risk from registered-agent customers

Registered agent customers face new and materially expanded exposure — civil penalties for Code of Professional Conduct breaches (s50-31), infringement notices, contingent suspensions, **interim suspensions of up to 90 days imposed without investigation, without natural justice, and not reviewable at first instance**, and 10-year re-registration bans. These create flow-on risks for DSPs:

- **Customer continuity**: Suspended or terminated agents will need rapid client-book transition, data portability and read-only access workflows.
- **Product-liability pressure**: Agents sanctioned following a software-contributed error (incorrect GST coding, STP miscalculation, missed substantiation prompt) may seek contractual recourse, indemnities and warranty claims against the DSP.
- **Feature demand**: Agents will expect software to actively support Code compliance — immutable audit trails, conflict registers, consent capture, confidentiality controls, "reasonable care" prompts, PI-insurance tracking, CPE logging, breach-reporting workflows.
- **Employing/using deregistered entities (s50-25)**: DSP marketplaces, certified advisor programs and referral networks need real-time integration with the TPB public register to avoid association risk.

AI, automation and the "false or misleading statements" risk

New s50-21 targets unregistered preparers making false or misleading statements, and new s50-31 creates civil penalties for Code breaches by registered agents. Generative-AI and automation features introduce new and poorly understood risks:

- AI hallucinations or erroneous classifications could cause an agent customer to inadvertently make a false or misleading statement.
- The allocation of responsibility between the DSP (tool builder), the agent (professional user) and the taxpayer (client) is legally unsettled.
- Existing Code obligations (reasonable care, competency, honesty) were not drafted with AI copilots in mind.

Request 2: Government, in consultation with the TPB, the ATO and industry, should issue guidance on the allocation of responsibility for AI-assisted outputs, and confirm that a registered agent retains ultimate professional responsibility for checking the outputs of software tools used in the course of their practice.

Interim suspension regime — operational and technical implications

Interim suspensions take effect the day after notification, last up to 90 days, are not reviewable at first instance, and can be extended where an investigation has commenced. DSPs will need to:

- Detect and reflect TPB register status changes in near-real time.
- Automatically gate ATO connected functions for suspended agents (eg. STP, tax return lodgement and prefill via PLS).
- Provide read-only and wind-down access to allow suspended agents to transition clients.
- Maintain evidentiary logs sufficient for both ATO DSP-framework audits and TPB enforcement.

These capabilities require **machine-readable TPB register APIs** with real-time status, reason codes and effective dates. The current TPB register is not sufficient for this purpose.

Request 3: Commit to an enhanced, real-time, API-accessible TPB register as a companion to the sanctions reform.

Commencement and transition risk

The Bill is expected to come into immediate effect once it receives Royal Assent and applies to conduct on or after commencement with no grandfathering. DSPs face:

- A potentially short window to review every customer-facing marketing claim, product flow and contractual term.
- Retrospective exposure on marketing content that remains live at commencement.
- No transitional period for partner, marketplace and reseller agreements to be renegotiated.

Request 4: Provide a minimum **12-month transition period** for DSP-relevant aspects of the regime, together with a published TPB enforcement approach that prioritises education and guidance over prosecution in the first 24 months.

Enforceable undertakings, product design and governance

The TPB will be able to accept enforceable undertakings across the whole TAS Act. DSPs could be pressured, in the context of an investigation, to offer EUs involving product changes, audit rights and long-tail remediation. Governance implications include:

- Board-level attestations on TAS Act compliance for SGE-classified DSP groups.
- PI and cyber insurance that specifically contemplates TPB investigation costs and third-party claims from sanctioned agents.
- Documented, testable compliance frameworks covering marketing, product, partner and data controls.

Summary of requests

1. **Definitional clarity** — modernise sections 90-5 and 90-10 of the TAS Act (or issue binding interpretive guidance) to confirm that the supply of software, automation, analytics and AI features used by a taxpayer or registered agent is not the provision of a tax agent or BAS service by the DSP.
2. **AI responsibility allocation** — issue joint TPB/ATO guidance clarifying that registered agents retain ultimate professional responsibility for AI-assisted outputs, and that DSPs are not captured as unregistered preparers by virtue of embedding AI or automation in their tools.
3. **Real-time TPB register** — deliver an API-accessible TPB register with real-time status, reason codes and effective dates to support lawful gating of regulated functionality.
4. **Transition and enforcement posture** — a minimum 12-month DSP-facing transition period and a published TPB enforcement policy prioritising education and remediation in the first 24 months.
5. **Proportionality for SGEs** — acknowledge in TPB enforcement guidance that SGE penalty maxima are ceilings, not starting points, and that DSP conduct which is inadvertent, promptly remediated or systemic-rather-than-wilful should be addressed through infringement notices and enforceable undertakings rather than body-corporate-tier civil penalties.
6. **Ongoing DSP consultation** — establish a formal DSP-TPB-Treasury working group, mirroring the ATO DSP Operational Framework governance, to keep the sanctions regime and its interpretive settings aligned with product and AI innovation.

Conclusion

The policy intent of the Bill is sound and DSPs support stronger deterrence of misconduct.

However, we would reiterate there is a substantial risk of unintended consequences occurring as a result of relying on a sanctions regime built on definitions drafted for a pre-digital era. When applied to globally-scaled, AI-enabled software at tier-1 SGE penalty levels, it is not difficult to envision the not-intended impacts these reforms will have on Australia's accounting-tech and regtech sectors.

Absolute clarity on what is — and what is not — a "tax agent service" or "BAS service" in a digital-by-default, AI-supported future is the single most important reform that can be delivered alongside this Bill. With that clarity, DSPs can continue to invest in Australian-specific innovation, partner constructively with the TPB and the ATO, and support registered agents in meeting the heightened Code obligations this Bill introduces.

DSPs welcome the opportunity to engage further with Treasury, the TPB and the ATO on these matters.

This submission has been prepared in response to the Exposure Draft Explanatory Materials for the Treasury Laws Amendment Bill 2026: Enhancing TPB Sanctions Framework.