



THE TAX INSTITUTE

THE MARK OF EXPERTISE

26 February 2015

Mr Ian Taylor
Chair
Tax Practitioners Board
GPO Box 1620
SYDNEY NSW 2001

By email: tpbsubmissions@tpb.gov.au

Dear Ian,

TPB Information Sheet TPB(I) D25/2015 - Applying for registration during the transitional period: Sufficient experience to be able to provide tax (financial) advice services to a competent standard

The Tax Institute welcomes the opportunity to make a submission to the Tax Practitioners Board in relation to the Exposure Draft *TPB Information Sheet TPB(I) D25/2015 - Applying for registration during the transitional period: Sufficient experience to be able to provide tax (financial) advice services to a competent standard (Exposure Draft)*.

Sufficient experience

Paragraphs 6 and 7 of the Exposure Draft contain the main guidance the Tax Practitioners Board (**Board**) is providing in relation to the 'sufficient experience' requirement that applies under the transitional provisions¹ to a tax financial adviser seeking registration with the Board during the transitional period².

The Board has formed the view that the equivalent of 18 months or longer of full-time experience will satisfy the 'sufficient experience' requirement (paragraph 6). In paragraph 7, the Board goes on to say that they will consider experience gained in two different contexts:

- a) Experience gained by the AFS licensee or their Authorised Representative prior to 1 July 2014 if that experience would have required the person to register with

¹ Item 50(d) of the *Tax Laws Amendment (2013 Measures No. 3) Act 2013* (Cth)

² 1 January 2016 to 30 June 2017

the Board as a tax agent but for the carve out in sub-regulation 13(2) of the *Tax Agent Services Regulations 2009* (Cth) (**Regulations**); and

- b) Experience gained prior to the commencement of the Tax Agent Services Regime (**TASR**) in March 2010 where the experience has consisted of providing tax advice in the context of financial advice.

A person applying to register with the Board as a tax (financial) adviser during the transitional period has a lesser experience requirement to meet than a person applying under the standard rules. Under (a) above, it is positive to note that the Board is looking for a tax (financial) adviser to have experience equivalent to the level of experience required of a tax agent gained since the start of TASR.

However, under (b), in light of the constantly evolving nature of Australia's tax laws, we are concerned that applicants may proffer experience that is potentially many years old and therefore out-of-date as compared to experience more recently gained.

Therefore, we recommend that the Board does not accept experience gained prior to 1 January 2008, that is, eight years prior to the start of the transitional provisions, to satisfy the 'sufficient experience' requirement. In our view, someone with experience gained prior to 1 January 2008 would unlikely be up-to-date with the latest changes in the tax law. It is certainly not in the interests of consumers to have registered tax (financial) advisers able to practice that have experience which is out-of-date and whom have not kept up to date with the latest changes in tax law and administration.

A cut-off date of eight years prior to the start of the transitional provisions is in line with the 'six out of eight years' experience' requirement in the fourth registration option under the standard provisions³. Accordingly, we request that the Board specify this restriction in the finalised version of the Exposure Draft.

Competent standard

It is unclear from the Exposure Draft what evidence the Board seeks from a person applying to register under the transitional rules that they are able to meet the 'competent standard' requirement. It appears only that the applicant needs to provide verification that they have sufficient experience.

We recommend that an applicant be required to provide evidence of their competence (together with evidence of their experience) in the verification information an applicant is required to provide of the nature set out in paragraph 10 of the Exposure Draft. Should the Board agree with this approach, this requirement should be made clear in the finalised version of the Exposure Draft.

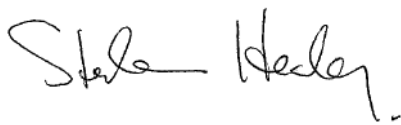
³ See Schedule 2 Part 3 Item 304 of the Regulations. A person registering with the Board may also apply under the standard provisions from 1 January 2016 so the same time period in which experience has been gained (that is counted towards the registration requirements) should be applied in both cases.

We suggest insertion of an additional paragraph (no.16) along the lines of:

16. To become registered under the transitional option, applicants will also need to provide appropriate verification with their application to demonstrate they are able to provide tax (financial) advice to a competent standard. This may be contained in the same verification documentation required to be provided under paragraph 9.

If you would like to discuss any of the above, please contact either me or Tax Counsel, Stephanie Caredes, on 02 8223 0059.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steve Healey', with a small horizontal line at the end.

Stephen Healey
President