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| **EXPOSURE DRAFT (08/09/2023)** |

Tax Agent Services Amendment (Register Information) Regulations 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2023

David Hurley

Governor‑General

By His Excellency’s Command

Stephen Jones **[DRAFT ONLY—NOT FOR SIGNATURE]**

Assistant Treasurer  
Minister for Financial Services

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1 Name

This instrument is the *Tax Agent Services Amendment (Register Information) Regulations 2023*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | Immediately after the commencement of *[the relevant amendments of the Tax Agent Services Act 2009]*. |  |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Tax Agent Services Act 2009*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Tax Agent Services Regulations 2022

1 Before section 24

Insert:

Division 1—Administrative assistance

2 Section 25

Repeal the section, substitute:

Division 2—Register of entities

25 Authority for this Division

This Division (except for section 25E) is made for the purposes of subsection 60‑135(1) of the Act.

25A Basic details

(1) If an entity is required (whether under the Act or under these Regulations) to be entered on the register for a period, then:

(a) the details specified under subsections (2) and (3) must be entered on the register in respect of the entity for that period; and

(b) those details must be kept up to date throughout that period.

Current details

(2) The following details are specified:

(a) the name of the entity;

(b) the contact details of the entity;

(c) if the entity is a registered tax agent or BAS agent:

(i) the registration number of the entity; and

(ii) any relevant professional affiliation of the entity; and

(iii) the period for which the entity is to be registered as a registered tax agent or BAS agent; and

(iv) any condition to which the registration of the entity is subject.

Historical details

(3) The following details are also specified:

(a) if the entity has, in the previous 5 years, had a name that is not the same as the entity’s current name—each name that the entity has had during the previous 5 years;

(b) if the entity is a registered tax agent or BAS agent and has, in the previous 5 years, had a registration number that is not the same as the entity’s current registration number—each registration number that the entity has had during the previous 5 years;

(c) if the entity is not a registered tax agent or BAS agent but has, at any time in the previous 5 years, been a registered tax agent or BAS agent—each registration number that the entity has had during the previous 5 years.

25B Orders, suspensions and terminations

(1) If the Board has:

(a) given the entity an order under section 30‑20 of the Act; or

(b) suspended the entity’s registration under section 30‑25 of the Act; or

(c) terminated the entity’s registration under section 30‑30 or Subdivision 40‑A of the Act;

then:

(d) the entity must be entered on the register; and

(e) the details specified under subsection (2) of this section must be entered on the register in respect of the entity;

for a period of 5 years starting on the day when the order, suspension or termination takes effect.

Note: For when a termination takes effect, see subsection 40‑20(2) of the Act. For when an order or a suspension takes effect, see subsections (3) and (5) of this section.

(2) For the purposes of subsection (1), the following details are specified:

(a) a statement to the effect that the entity has been given an order, had its registration suspended or had its registration terminated (whichever applies);

(b) if the entity has been given an order—a summary of the content of the order;

(c) the day on which the order, suspension or termination takes effect;

(d) if the entity has been given an order, and the order is in force for a period—the period for which order is in force (see subsection (4));

(e) if the entity’s registration has been suspended—the period for which the suspension is in force (see subsection (5));

(f) the reasons for the order, suspension or termination.

Timing of orders

(3) For the purposes of this section, an order given under section 30‑20 of the Act takes effect at the following time:

(a) if the order specifies a period as mentioned in paragraph 30‑20(2)(a) or (b) of the Act—the start of that period;

(b) otherwise—the start of the day after the day when the order is given.

(4) For the purposes of this section:

(a) an order given under section 30‑20 of the Act is in force for a period if the order specifies a period as mentioned in paragraph 30‑20(2)(a) or (b) of the Act; and

(b) if the order specifies such a period, then the order is in force for that period.

Timing of suspensions

(5) For the purposes of this section, if an entity’s registration is suspended for a period under section 30‑25 of the Act, then:

(a) the suspension takes effect at the start of that period; and

(b) the suspension is in force for that period.

25C Rejection of renewal application on integrity grounds

(1) If:

(a) the Board has, under section 20‑25 of the Act, rejected an application (a ***renewal application***)by an entity for renewal of the entity’s registration as a registered tax agent or BAS agent; and

(b) the Board rejected the renewal application because (or in part because):

(i) if the entity is an individual—the Board was not satisfied that the individual met the requirement set out in paragraph 20‑5(1)(a) of the Act; or

(ii) if the entity is a partnership—the Board was not satisfied that the partnership met a requirement set out in subparagraph 20‑5(2)(a)(ii), (b)(i) or (iii), of the Act; or

(iii) if the entity is a company—the Board was not satisfied that the company met a requirement set out in paragraph 20‑5(3)(a) or (c) of the Act;

then:

(c) the entity must be entered on the register; and

(d) the details specified under subsection (2) of this section must be entered on the register in respect of the entity;

for a period of 5 years starting on the day on when the Board rejected the renewal application.

Note: The requirements mentioned in subparagraphs (b)(i), (ii) and (iii) of this subsection either impose a fit and proper person test on the entity (or a related entity), or require the entity (or a related entity) not to have been convicted of certain offences during the previous 5 years.

(2) For the purposes of paragraph (1)(d), the following details are specified:

(a) a statement to the effect that the Board rejected the renewal application;

(b) the date on which the Board rejected the renewal application;

(c) the reason mentioned in subparagraph (1)(b)(i), (ii) or (iii) (whichever applies) for the Board’s rejection of the renewal application.

25D Sufficient number individuals for partnerships and companies

(1) This section applies if:

(a) a partnership or company applies under section 20‑20 of the Act for registration (including renewal of registration) as a registered tax agent or BAS agent; and

(b) in connection with that application, the partnership or company gives the Board details of an individual (a ***sufficient number individual*** for the partnership or company) that is a registered tax agent or BAS agent, for the purposes of satisfying the requirement in paragraph 20‑5(2)(c) or (3)(d) of the Act (whichever applies); and

(c) the Board, under section 20‑25 of the Act, grants the application and determines a period (the ***registration period***) for which the partnership or company is to be registered.

(2) If an individual is a sufficient number individualfor the partnership or company, then:

(a) the name and registration number of the individual must be entered on the register in respect of the partnership or company; and

(b) the name and registration number of the partnership or company must be entered on the register in respect of the individual;

for the period that:

(c) starts at the beginning of the registration period; and

(d) ends at earliest of the following:

(i) the end of the registration period;

(ii) the end of the day when the individual*,* or the partnership or company, ceases to be a registered tax agent or BAS agent;

(iii) if the partnership or company gives the Board notice that the individual is, from a specified day, no longer to be counted for the purposes of determining whether the partnership or company satisfies the requirement in paragraph 20‑5(2)(c) or (3)(d) of the Act (whichever applies)—the start of that day.

25E Findings of investigations

(1) This section applies if:

(a) the Board investigates conduct under section 60‑95 of the Act and finds that the conduct breaches the Act; and

(b) the Board makes a decision (a ***publication decision***)under subparagraph 60‑125(2)(b)(v) of the Act in relation to the entity (the ***contravening entity***) that engaged in the conduct.

(2) For the purposes of subparagraph 60‑125(2)(b)(v) of the Act:

(a) the prescribed details in respect of the contravening entity are:

(i) the Board’s finding that the conduct of the contravening entity breaches the Act; and

(ii) the reasons for that finding; and

(b) the prescribed period is the period of 5 years starting on the day when the Board makes the publication decision.

Note: Under subsection 60‑125(2A) of the Act, the contravening entity, and the prescribed details, must be entered on the registered for the prescribed period.

3 Application of amendments

Definitions

(1) In this item:

***TAS Act*** means the *Tax Agent Services Act 2009*.

***TAS Regulations*** means the *Tax Agent Services Regulations 2022*.

Basic details to be entered on register

(2) To avoid doubt, a period of 5 years referred to in subsection 25A(3) of the TAS Regulations may be a period that starts before, on or after the commencement of this instrument.

Orders, suspensions and terminations

(3) Section 25B of the *Tax Agent Services Regulations 2022* applies in relation to:

(a) an order given under section 30‑20 of the *Tax Agent Services Act 2009*; or

(b) a suspension of registration under section 30‑25 of the TAS Act; or

(c) a termination of registration under section 30‑30 or Subdivision 40‑A of the TAS Act;

if, for the purposes of section 25B of the TAS Regulations, the order, suspension or termination (as the case may be) takes effect on or after 1 July 2022.

Rejection of renewal applications

(4) Section 25C of the TAS Regulations applies in relation to a rejection under section 20‑25 of the TAS Act of an application for renewal of registration if the rejection occurs on or after 1 July 2022.

Sufficient number individuals

(5) Section 25D of the TAS Regulations applies in relation to an application by a partnership or company for registration (including renewal of registration) under section 20‑20 of the TAS Act if:

(a) the application was made on or after the commencement of this instrument; or

(b) the application was made before the commencement of this instrument and, immediately before that commencement, the Board had not made a decision about whether to grant the application; or

(c) the application was made before the commencement of this instrument and both of the following apply:

(i) before that commencement, the Board had granted the application and determined a period (the ***registration period***) for which the partnership or company is to be registered;

(ii) immediately before that commencement, the registration period had not ended.