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Director, Tax Agent Regulation Unit
BDO Services Pty Ltd
Personal, Indirect Tax and Charities Division
The Treasury
Langton Crescent
PARKES ACT 2600

31 July 2024

Dear Sir/Madam

REVIEW OF ELIGIBILITY REQUIREMENTS FOR REGISTRATION WITH THE TAX PRACTITIONERS BOARD

BDO refers to the invitation from Treasury to participate in the Consultation Process regarding proposed reforms to the Tax Practitioners Board's ("TPB") registration requirements as considered in the Consultation Paper of July 2024. We recently participated in a Treasury roundtable where the proposals were discussed and provide this submission as supplementary to, and in re-enforcement of, comments made in that forum.

Our key concerns in relation to the proposals fall into 3 categories.

- 1) **Repetition/Duplication** - The introduction of behavioural requirements on registration that are already addressed through an existing provision of the Tax Agent's Code of Professional Conduct (Code) creates possibility of confusion and conflict in interpretation. If a mechanism already exists in the Code duplication is not required.
- 2) **Overload** - As outlined in the introduction to the paper there has been a significant level of activity in implementing the reforms announced by the government in August 2023. Whilst Treasury's focus is commended, successful implementation will be key to success, and the changes to date have been demanding for many practitioners. We particularly highlight the new "breach reporting" obligations applying from 1 July and the 8 additional Code obligations introduced by the Ministerial Determination registered on 2 July 2024, a significant change for all. We strongly encourage the government to consider deferring further activity on the roll out of the next phase of the response, and specifically changes to registration, to ensure that tax professionals and the regulators have sufficient time to understand and embed the more recent changes. Deploying a more extended "stepped approach" will ensure that future refinements are appropriate and "fit for purpose", the focus being on management of deficiencies that exist in the current evolving environment, rather than when the independent review of the TPB was undertaken in 2019.

- 3) **Removal of RPA pathway impacting quality and depth of tax profession** - We stress the need for caution in designing any changes to registration pathways, particularly the RPA qualification pathway. Removing the RPA pathway may lead to professionals choosing one qualification over another rather than attaining both e.g. Tax Agency over another professional qualification, or vice versa. Such an outcome would likely be to the detriment of the profession weakening the skills base, and in turn impacting upon the quality of service available to the general community and contrary to the objective of the proposals.

The attached appendix provides additional comments in relation to the specific questions raised in the consultation document in the attached appendix.

Yours faithfully

BDO Services Pty Ltd

A handwritten signature in blue ink, appearing to read 'TASd', is written over a light blue horizontal line.

Tim Sandow
Partner

Attachments:

Appendix

Appendix

Review of eligibility requirements for registration with the Tax Practitioners Board

Comments in respect of specific questions raised in relation to Treasury’s consultation paper of July 2024.

| Topic | Ref | Comment |
|--|---------|---|
| Strengthening Registration requirements | 1 | The registration requirements should be supplementary to the existing obligations under the Code, and not duplicate. For example, the obligation to maintain a system of quality management under the Ministerial Direction inherently requires self-governance. |
| | 2 | Prescription of numbers is not appropriate. The focus should be on behaviours rather than prescribing numbers. |
| RPA Framework | 3 and 4 | The framework is appropriate, conceptually it is working. If anything is refined it should be the RPA eligibility/monitoring that should be managed. To remove this option would disadvantage those who seek tax agency later in their career, and likely at the cost of the profession having regard to competence, experience, and desired demonstrated ethics where those individuals “opt out”. It is difficult to appreciate how a fresh graduate with limited tax experience (1 Year) can possibly offer more to the profession than an equally qualified professional, who has spent a number of years practicing under another professional qualification but nonetheless aligned, who has greater tax experience. |
| | 5 | If the RPA pathway is removed, then existing members must be grandfathered. |
| Alternative Experience | 6 - 12 | <p>The overriding concept is that consumers need to have confidence that the advice being provided by a Tax Agent is accurate and up-to-date. With this in mind, any alternative experience must be relevant to providing Australian tax advice.</p> <p>The primary pathways should remain a matter of objective determination with tweaking around time periods and approved absences such as maternity leave.</p> <p>Introducing subjective assessment should only be the default where the primary pathways cannot be satisfied and a case should then be presented and assessed by appropriately experienced assessors.</p> <p>Broadening the registration pathways is welcomed but with caution. For example, whilst generally international expertise may be of limited merit given</p> |

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| | | the intricacies of taxation law and jurisdictional differences, it may be relevant in circumstances relating to international tax advisory, transfer pricing, aspects of goods and services tax. Any discretion should be exercised with care. |
| Primary qualifications settings | 13-15 | No additional comments. |
| “Fit and Proper person” in the TASA context | 16-22 | Recommend no adjustment. The concept is acknowledged and readily understood and is provided in context of the more prescriptive ethics code. It is better to supplement the existing code with practical guidance. |
| Other Proposals | 23-27 | No additional comments. |