



Tax Agent Services Regulations 2009

Select Legislative Instrument 2009 No. 314 as amended

made under the

Tax Agent Services Act 2009

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Regulation 1

Part 1 Preliminary

1 Name of Regulations [see Note 1]

These Regulations are the *Tax Agent Services Regulations 2009*.

2 Commencement [see Note 1]

These Regulations commence as follows:

- (a) on the day after they are registered — regulations 1 to 3 and 11;
- (b) on the commencement of Part 2 of the *Tax Agent Services Act 2009* — the remainder.

3 Definitions

In these Regulations:

Act means the *Tax Agent Services Act 2009*.

Board means the Tax Practitioners Board established by section 60-5 of the Act.

recognised BAS agent association means an organisation recognised by the Board under regulation 4A.

recognised tax agent association means an organisation recognised by the Board under regulation 5A.

requirements for recognition means:

- (a) for a recognised BAS agent association, the requirements mentioned in Part 1 of Schedule 1; and
- (b) for a recognised tax agent association, the requirements mentioned in Part 2 of Schedule 1.

secretary means the secretary of the Board, and includes, in his or her absence, a person who for the time being performs the duties of the secretary.

Regulation 3

Note Under subsection 90-1 (2) of the Act, expressions in the Act (other than the expression “this Act”) have the same meaning as in the *Income Tax Assessment Act 1997*. Therefore several other words and expressions used in these Regulations have the meaning given by the *Income Tax Assessment Act 1997*. For example:

- (a) stapled entity
- (b) taxation law
- (c) under common ownership.

Part 1A Recognition of professional associations as recognised BAS agent associations or recognised tax agent associations

4 Purpose of Part

For section 20-10 of the Act, this Part provides for a system to allow the Board to accredit professional associations as recognised BAS agent associations or recognised tax agent associations for the purposes of those organisations recognising professional qualifications and experience that are relevant to the registration of individuals as BAS agents and registered tax agents.

Division 1 Recognised BAS agent association

4A Application for recognition as recognised BAS agent association

An organisation seeking recognition as a recognised BAS agent association must apply to the Board for recognition using a form approved by the Board.

4B When Board must consider application

The Board must consider an application for recognition as a recognised BAS agent association as soon as practicable after receiving the application.

**4C Recognition of organisation as recognised BAS
agent association — 1 March 2010 to 28 February
2013**

- (1) In the period beginning on 1 March 2010 and ending on 28 February 2013, the Board must recognise an organisation as a recognised BAS agent association if:
 - (a) the organisation meets the requirements for recognition for a recognised BAS agent association; or
 - (b) the organisation meets the requirements for recognition for a recognised BAS agent association other than the requirement mentioned in item 109 of Schedule 1.
- (2) In the period beginning on 1 March 2010 and ending on 28 February 2013, the Board may recognise an organisation as a recognised BAS agent association if the organisation:
 - (a) meets the requirements for recognition for a recognised BAS agent association other than the requirement mentioned in item 108 of Schedule 1; or
 - (b) meets the requirements for recognition for a recognised BAS agent association other than the requirements mentioned in items 108 and 109 of Schedule 1.

Note 1 Paragraph 6A (a) provides that a decision, under this regulation, not to recognise an organisation as a recognised BAS agent association is a reviewable decision.

Note 2 Section 27A of the *Administrative Appeals Tribunal Act 1975* requires a person who makes a reviewable decision to give a person whose interests are directly affected by the decision written notice of the making of the decision and of the person's right to have the decision reviewed.

**4D Recognition of organisation as recognised BAS
agent association — on and after 1 March 2013**

- (1) This regulation applies on and after 1 March 2013.
- (2) The Board must recognise an organisation as a recognised BAS agent association if the organisation meets the requirements for recognition for a recognised BAS organisation.

Regulation 4E

- (3) The Board may recognise an organisation, after considering the matters set out in subregulation (4), if the organisation meets the requirements for recognition of a recognised BAS agent association other than either or both of the requirements mentioned in item 108 or 109 of Schedule 1.
- (4) For subregulation (3), the Board must have regard to:
 - (a) the purposes of the Act; and
 - (b) the role of recognised BAS agent associations under these Regulations.

Note 1 Paragraph 6A (a) provides that a decision, under this regulation, not to recognise an organisation as a recognised BAS agent association is a reviewable decision.

Note 2 Section 27A of the *Administrative Appeals Tribunal Act 1975* requires a person who makes a reviewable decision to give a person whose interests are directly affected by the decision written notice of the making of the decision and of the person's right to have the decision reviewed.

4E Notice to Board if recognised BAS agent association ceases to meet requirement of recognition

If a recognised BAS agent association ceases to meet a requirement for recognition that applies to the association, it:

- (a) must give the Board written notice that it no longer meets the requirement; and
- (b) must give the notice not later than 30 days after the day on which the association becomes aware, or ought to have become aware, that it no longer meets the requirement; and
- (c) may make a written submission to the Board about why the association's recognition should not be terminated having regard to:
 - (i) the purposes of the Act; and
 - (ii) the role of recognised BAS agent associations under these Regulations.

4F Notice if Board requests

- (1) This regulation applies if:
 - (a) a recognised BAS agent association was recognised under subregulation 4D (3); and
 - (b) the Board gives the association a written request that the association tell the Board the reasons why it is still appropriate for the association to be recognised under subregulation 4D (3).
- (2) The recognised BAS agent association must:
 - (a) notify the Board in writing whether, in the association's view, the recognition is still appropriate having regard to:
 - (i) the purposes of the Act; and
 - (ii) the role of recognised BAS agent associations under these Regulations; and
 - (b) give the notice not later than 30 days after receiving the Board's request.

4G Termination of recognition of recognised BAS agent association

- (1) The Board may terminate the recognition of a recognised BAS agent association if:
 - (a) the association has not given the Board notice under regulation 4E or 4F; or
 - (b) the Board has reasonable grounds for believing the association has ceased to meet the requirements for recognition for the association and the Board is not satisfied that it is appropriate for the association to be recognised having regard to:
 - (i) the purposes of the Act; and
 - (ii) the role of recognised BAS agent associations under these Regulations.
- (2) Before terminating the recognition of an association, the Board must give the association written notice:
 - (a) that it believes that the association's recognition should be terminated; and

Regulation 5

- (b) the reasons why it believes the association's recognition should be terminated; and
 - (c) inviting the association to make a written submission to the Board about why the association's recognition should not be terminated.
- (3) The written notice must specify a reasonable period within which the association may provide a submission.
- (4) In considering whether to terminate the association's recognition, the Board must:
 - (a) have regard to any submission made by the association:
 - (i) under paragraph 4E (c); or
 - (ii) in response to an invitation by the Board for the submission under paragraph (2) (c); and
 - (b) make a decision as soon as practicable after:
 - (i) receiving the submission; or
 - (ii) if no submission has been received — the end of the period specified for the giving of a submission.

Note 1 Paragraph 6A (b) provides that a decision, under this regulation, to terminate a recognised BAS agent association's recognition is a reviewable decision.

Note 2 Section 27A of the *Administrative Appeals Tribunal Act 1975* requires a person who makes a reviewable decision to give a person whose interests are directly affected by the decision written notice of the making of the decision and of the person's right to have the decision reviewed.

Division 2 Recognised tax agent association

5 Application for recognition as recognised tax agent association

An organisation seeking recognition as a recognised tax agent association must apply to the Board for recognition using a form approved by the Board.

5A When Board must consider application

The Board must consider an application for recognition as a recognised tax agent association as soon as practicable after receiving the application.

5B Recognition of organisation as recognised tax agent association

- (1) The Board must recognise an organisation as a recognised tax agent association if the organisation meets the requirements for recognition for a recognised tax agent association.
- (2) The Board may recognise an organisation, after considering the matters set out in subregulation (3), if the organisation meets the requirements for recognition of a recognised tax agent association other than the requirements mentioned in item 209 or 210 of Schedule 1.
- (3) For subregulation (2), the Board must have regard to:
 - (a) the purposes of the Act; and
 - (b) the role of recognised tax agent associations under these Regulations.

Note 1 Paragraph 6A (c) provides that a decision, under this regulation, not to recognise an organisation as a recognised tax agent association is a reviewable decision.

Note 2 Section 27A of the *Administrative Appeals Tribunal Act 1975* requires a person who makes a reviewable decision to give a person whose interests are directly affected by the decision written notice of the making of the decision and of the person's right to have the decision reviewed.

5C Notice to Board if recognised tax agent association ceases to meet requirement of recognition

If a recognised tax agent association ceases to meet a requirement for recognition that applies to the association, it:

- (a) must give the Board written notice that it no longer meets the requirement; and
- (b) must give the notice not later than 30 days after the day on which the association becomes aware, or ought to have become aware, that it no longer meets the requirement; and

Regulation 5D

- (c) may make a written submission to the Board about why the association's recognition should not be terminated having regard to:
 - (i) the purposes of the Act; and
 - (ii) the role of recognised tax agent associations under these Regulations.

5D Notice if Board requests

- (1) This regulation applies if:
 - (a) a recognised tax agent association was recognised under subregulation 5B (2); and
 - (b) the Board gives the association a written request that the association tells the Board the reasons why it is still appropriate for the association to be recognised under subregulation 5B (2).
- (2) The recognised tax agent association must:
 - (a) notify the Board in writing whether, in the association's view, the recognition is still appropriate having regard to:
 - (i) the purposes of the Act; and
 - (ii) the role of recognised tax agent associations under these Regulations; and
 - (b) give the notice not later than 30 days after receiving the Board's request.

5E Termination of recognition of recognised tax agent association

- (1) The Board may terminate the recognition of a recognised tax agent association if:
 - (a) the association has not given the Board notice under regulation 5C or 5D; or
 - (b) the Board has reasonable grounds for believing the association has ceased to meet the requirements for recognition for the association and the Board is not satisfied that it is appropriate for the association to be recognised having regard to:
 - (i) the purposes of the Act; and

Regulation 5E

- (ii) the role of recognised tax agent associations under these Regulations.
- (2) Before terminating the recognition of an association, the Board must give the association written notice:
 - (a) that it believes that the association's recognition should be terminated; and
 - (b) the reasons why it believes the association's recognition should be terminated; and
 - (c) inviting the association to make a written submission to the Board about why the association's recognition should not be terminated.
- (3) The written notice must specify a reasonable period within which the association may provide a submission.
- (4) In considering whether to terminate the association's recognition, the Board must:
 - (a) have regard to any submission made by the association:
 - (i) under paragraph 5C (c); or
 - (ii) in response to an invitation by the Board for the submission under paragraph (2) (c); and
 - (b) make a decision as soon as practicable after:
 - (i) receiving the submission; or
 - (ii) if no submission has been received — the end of the period specified for the giving of a submission.

Note 1 Paragraph 6A (d) provides that a decision, under this regulation, to terminate a recognised tax agent association's recognition is a reviewable decision.

Note 2 Section 27A of the *Administrative Appeals Tribunal Act 1975* requires a person who makes a reviewable decision to give a person whose interests are directly affected by the decision written notice of the making of the decision and of the person's right to have the decision reviewed.

Division 3 Miscellaneous

6 Publication of notice on Board's website

The Board must publish notice of the following decisions on its website:

- (a) a decision by the Board to recognise an organisation as a recognised BAS agent association under regulation 4C or 4D;
- (b) a decision by the Board to terminate the recognition of a recognised BAS agent association under regulation 4G;
- (c) a decision by the Board to recognise an organisation as a recognised tax agent association under regulation 5B;
- (d) a decision by the Board to terminate the recognition of a recognised tax agent association under regulation 5E.

6A Review of decisions

Application may be made to the Administrative Appeals Tribunal for review of any of the following decisions of the Board:

- (a) a decision not to recognise an organisation as a recognised BAS agent association under regulation 4C or 4D;
- (b) a decision to terminate a recognised BAS agent association's recognition under regulation 4G;
- (c) a decision not to recognise an organisation as a recognised tax agent association under regulation 5B;
- (d) a decision to terminate a recognised tax agent association's recognition under regulation 5E.

Regulation 9**Part 2 Registration****7 Eligibility for registration as BAS agent — prescribed requirements**

For paragraph 20-5 (1) (b) of the Act:

- (a) the requirements set out in Part 1 of Schedule 2 are prescribed; and
- (b) an individual is required to comply only with a requirement prescribed in 1 of the items in that Schedule.

8 Eligibility for registration as tax agent — prescribed requirements

For paragraph 20-5 (1) (b) of the Act:

- (a) the requirements set out in Part 2 of Schedule 2 are prescribed; and
- (b) an individual is required to comply only with a requirement prescribed in 1 of the items in that Schedule.

9 Application for registration — processing fees

For paragraph 20-20 (2) (b) of the Act, the fee for an application to the Board for registration is set out in the following table.

Note The period of registration is for at least 3 years: see subsection 20-25 (4) of the Act. Registration may be renewed with effect from when current registration expires: see section 20-50 of the Act.

Item	For an application for this type of registration ...	the fee is ...
1	Registration as a tax agent who carries on a business as a tax agent	\$500
2	Registration as a tax agent who does not carry on a business as a tax agent	\$250
3	Registration as a BAS agent who carries on a business as a BAS agent	\$100
4	Registration as a BAS agent who does not carry on a business as a BAS agent	\$50

Regulation 10

Part 3 Investigations**10 Power to require witnesses to attend — allowances and expenses**

For subsections 60-105 (2) and (3) of the Act, the allowances and expenses payable to a person who is required, under subsection 60-105 (1) of the Act, to attend an investigation are set out in the following table.

Item	Person	Allowances and expenses
1	Person required to attend to give evidence because of that person's professional, scientific or other special skill or knowledge	In respect of each day on which the person attends, the amount specified in the <i>High Court Rules 2004</i> in relation to the expenses of a witness of that kind
2	Person not mentioned in item 1	In respect of each day on which the person attends, the amount specified in the <i>High Court Rules 2004</i> in relation to the expenses of a witness of that kind
3	Person mentioned in item 1 or 2, giving skilled evidence	In addition to the amount payable to the person under item 1 or 2, an amount that the Board considers reasonable and properly incurred and paid for qualifying to give skilled evidence
4	Person mentioned in item 1 or 2	In addition to the amount payable to the person under item 1 or 2, and any amount payable under item 3: (a) an amount that the Board considers reasonable for the actual cost of the person's conveyance; and (b) an amount that the Board considers reasonable for sustenance or maintenance

Part 4 The Tax Practitioners Board

11 Administrative assistance to the Board

- (1) For section 60-80 of the Act:
- (a) the Commissioner must, after consulting the Board, make available to the Board a person:
 - (i) engaged under the *Public Service Act 1999*; and
 - (ii) performing duties in the Australian Taxation Office; to be the secretary of the Board; and
 - (b) the Commissioner must make available to the Board persons:
 - (i) engaged under the *Public Service Act 1999*; and
 - (ii) performing duties in the Australian Taxation Office; to provide administrative assistance to the Board; and
 - (c) the Commissioner is to determine the number of persons having regard to:
 - (i) the number of persons who would be required to enable the Board to perform its functions and exercise its powers under the Act; and
 - (ii) the funding that has been allocated, as agreed between the Commissioner and the Board, for the purpose of allowing the Board to perform its functions and exercise its powers under the Act.

Note 1 Subregulation (1) does not prevent other persons, who are not engaged under the *Public Service Act 1999* or who are not performing duties in the Australian Taxation Office from being engaged to perform services related to the performance of the Board's functions and the exercise of its powers (for example, contractors involved in the establishment of IT systems).

Note 2 For paragraph (1) (c), the Commissioner also has obligations to promote the efficient, effective and ethical use of Commonwealth resources under the *Financial Management and Accountability Act 1997*.

- (2) The secretary must:
- (a) attend all meetings of the Board; and
 - (b) keep a record of the proceedings of the Board.

Regulation 12

- (3) A certificate or other instrument given or issued by the Board is taken to be sufficiently authenticated if signed by the secretary on behalf of the Board.
- (4) The secretary may, in writing, delegate any of his or her powers and functions (other than this power of delegation) to a person who has been made available to the Board under paragraph (1) (b).

12 Register of registered and deregistered tax agents and BAS agents

- (1) For subsection 60-135 (2) of the Act, the register of registered tax agents and BAS agents required by paragraph 60-135 (1) (a) of the Act must include the following information for each registered tax agent and BAS agent:
 - (a) the name of the registered tax agent or BAS agent;
 - (b) the contact details of the registered tax agent or BAS agent;
 - (c) any relevant professional affiliation of the registered tax agent or BAS agent;
 - (d) the duration of the registration of the registered tax agent or BAS agent;
 - (e) any condition to which the registration of the registered tax agent or BAS agent is subject;
 - (f) any sanction (other than a caution or termination) that has been imposed by the Board on the registered tax agent or BAS agent.

Note Subregulation (3) explains the information that must be placed on the register of entities in relation to the termination of the registration of a registered tax agent or BAS agent.

- (2) Information on the register of registered tax agents and BAS agents that relates to a sanction (other than a caution or termination) that has been imposed by the Board on a registered tax agent or BAS agent must be kept on the register for the longer of:
 - (a) 12 months starting on the day on which the sanction is imposed; and
 - (b) the period during which the sanction has effect.

Regulation 12

- (3) For subsection 60-135 (2) of the Act, the register of entities who were registered tax agents or BAS agents, and whose registration has been terminated in certain circumstances required by paragraph 60-135 (1) (b) of the Act, must include the following information for each entity:
- (a) the name of the entity;
 - (b) the contact details of the entity;
 - (c) the date of effect of the termination of the entity's registration;
 - (d) the reason for the termination of the entity's registration.
- (4) The register of registered tax agents and BAS agents may include other information that is relevant to the operation of the arrangements for the registration of tax agents and BAS agents.

Regulation 13

Part 5 Matters specified for Dictionary in Act

13 Specified services that are not tax agent services

- (1) For subsection 90-5 (2) of the Act, the following services are specified:
- (a) a service provided by an auditor of a self-managed superannuation fund under the *Superannuation Industry (Supervision) Act 1993*;
 - (b) a service provided by an entity to a related entity;
 - (c) a service provided by a related entity of an entity (the *first entity*) to another related entity of the first entity;
 - (d) a service provided by a trustee of a trust (or a related entity of the trustee) to the trust in relation to the trust;
 - (e) a service provided by a trustee of a trust (or a related entity of the trustee) to a wholly owned or controlled entity of the trust in relation to the entity;
 - (f) a service provided by a responsible entity of a managed investment scheme (or a related entity of the responsible entity, the manager of the managed investment scheme or the operator of the managed investment scheme) to the scheme in relation to the scheme;
 - (g) a service provided by a partner in a partnership (or a related entity of the partner) to another partner of the partnership in relation to the partnership;
 - (h) a service provided by a member of a joint venture (or a related entity of the member) to another member of the joint venture or an entity established to pursue the joint venture:
 - (i) in accordance with a written agreement; and
 - (ii) in relation to the joint venture;
 - (i) a service that is a custodial or depository service provided by a financial services licensee or an authorised representative of the licensee;

Regulation 13

- (j) a service provided by an entity (the **first entity**) to an entity previously owned by the first entity (the **second entity**) in relation to the second entity's obligations under a taxation law for the income year in which it was sold by the first entity.
- (2) For subsection 90-5 (2) of the Act, and for the period beginning on the day on which this regulation commences and ending on 30 June 2012, a service that is financial product advice is specified if it is:
 - (a) provided by a financial services licensee or an authorised representative of the licensee; and
 - (b) accompanied by a statement that:
 - (i) the provider of the advice is not a registered tax agent under the *Tax Agent Services Act 2009*; and
 - (ii) if the receiver of the advice intends to rely on the advice to satisfy liabilities or obligations or claim entitlements that arise, or could arise, under a taxation law, the receiver should request advice from a registered tax agent.
- (3) In this regulation:
 - associated entity** has the meaning given by section 9 of the *Corporations Act 2001*.
 - authorised representative** has the meaning given by section 761A of the *Corporations Act 2001*.
 - custodial or depository service** has the meaning given by section 761A of the *Corporations Act 2001*.
 - financial product advice** has the meaning given by section 761A of the *Corporations Act 2001*.
 - financial services licensee** has the meaning given by section 761A of the *Corporations Act 2001*.
 - managed investment scheme** has the meaning given by section 9 of the *Corporations Act 2001*.
 - related entity**, in relation to an entity, means:
 - (a) an associated entity of the entity; or
 - (b) an entity under common ownership with the entity; or

Regulation 13

- (c) a stapled entity of the entity or an associated entity of the stapled entity; or
- (d) an entity connected with the entity (within the meaning of section 328-125 of the *Income Tax Assessment Act 1997*, applied as if references in section 328-125 to a control percentage of 40% were references to a control percentage of 50%).

Schedule 1 Requirements to become recognised BAS agent associations and tax agent associations

(regulations 4C, 4D and 5B)

Part 1 Recognised BAS agent association

- 101 The organisation is a non-profit organisation.
- 102 The organisation has adequate corporate governance and operational procedures to ensure that:
 - (a) it is properly managed; and
 - (b) its internal rules are enforced.
- 103 The organisation has professional and ethical standards for its voting members, including terms to the effect that:
 - (a) voting members must undertake at least 15 hours of continuing professional education each year; and
 - (b) voting members must be of good fame, integrity and character; and
 - (c) each voting member is subject to rules controlling the member's conduct in the practice of his or her profession; and
 - (d) each voting member is subject to discipline for breaches of those rules; and
 - (e) if a voting member is permitted by that organisation to be in public practice, the voting member has professional indemnity insurance.
- 104 The organisation has satisfactory arrangements in place for:
 - (a) notifying clients of its members, or of members of its member bodies, about how to make complaints; and
 - (b) receiving, hearing and deciding those complaints; and

- (c) taking disciplinary action if complaints are justified.
- 105 The organisation has satisfactory arrangements in place for publishing annual statistics about:
 - (a) the kinds and frequency of complaints (except complaints under the Act about entities registered under the Act); and
 - (b) findings made as a result of the complaints; and
 - (c) action taken as a result of those findings.
- 106 The organisation is able to pay its debts as they fall due.
- 107 The management of the organisation:
 - (a) is required to be accountable to its members; and
 - (b) is required to abide by the corporate governance and operational procedures of the organisation.
- 108 The organisation has at least 1 000 voting members, of whom at least 500 are registered BAS agents.
- 109 Each voting member of the organisation has been awarded at least a Certificate IV Financial Services (Bookkeeping), or a Certificate IV Financial Services (Accounting), from:
 - (a) a registered training organisation; or
 - (b) an equivalent institution.

Part 2 Recognised tax agent association

- 201 The organisation is a non-profit organisation.
- 202 The organisation has adequate corporate governance and operational procedures to ensure that:
 - (a) it is properly managed; and
 - (b) its internal rules are enforced.
- 203 The organisation has professional and ethical standards for its voting members, including terms to the effect that:
 - (a) voting members must undertake an appropriate number of hours of continuing professional education each year, having regard to the circumstances and requirements of the members; and

- (b) voting members must be of good fame, integrity and character; and
- (c) each voting member is subject to rules controlling the member's conduct in the practice of his or her profession; and
- (d) each voting member is subject to discipline for breaches of those rules; and
- (e) if a voting member is permitted by that organisation to be in public practice, the voting member has professional indemnity insurance.

Note The appropriate number of hours of education each year may differ for members who have particular qualifications, areas of expertise or professional experience.

- 204 The organisation has satisfactory arrangements in place for:
- (a) notifying clients of its members, or of members of its member bodies, about how to make complaints; and
 - (b) receiving, hearing and deciding those complaints; and
 - (c) taking disciplinary action if complaints are justified.
- 205 The organisation has satisfactory arrangements in place for publishing annual statistics about:
- (a) the kinds and frequency of complaints made to the organisation (except complaints under the Act about entities registered under the Act); and
 - (b) findings made as a result of the complaints; and
 - (c) action taken as a result of those findings.
- 206 The organisation is able to pay its debts as they fall due.
- 207 The management of the organisation:
- (a) is required to be accountable to its members; and
 - (b) is required to abide by the corporate governance and operational procedures of the organisation.
- 208 An organisation is taken to have arrangements that comply with a requirement in item 203, 204 or 205 if the organisation is, or its members are, subject to:
- (a) a law of a State or Territory; or

- (b) a rule or other instrument of a body created by or under a law of a State or Territory;
that sets out a requirement in terms that are the same, or that have a similar effect, to the requirement in item 203, 204 or 205.
- 209 The organisation has at least 1 000 voting members, of whom at least 500 are registered tax agents.
- 210 Each voting member of the organisation is required to comply with at least 1 of the following requirements:
 - (a) the member has been awarded a degree or a post-graduate award from:
 - (i) an Australian tertiary institution; or
 - (ii) an equivalent institution;in the discipline of accountancy;
 - (b) the member has been awarded a diploma or higher award from:
 - (i) a registered training organisation; or
 - (ii) an equivalent institution;in the discipline of accountancy;
 - (c) the member has the academic qualifications required to be an Australian legal practitioner;
 - (d) the member was:
 - (i) registered as a tax agent, or as a nominee, for the purposes of Part VIIA of the *Income Tax Assessment Act 1936* as in force immediately before this Schedule commences; and
 - (ii) a member of, and entitled to vote at meetings of, a recognised professional association within the meaning of section 251LA of the *Income Tax Assessment Act 1936* as in force immediately before this Schedule commences;
 - (e) the member has the equivalent of 8 years of full-time experience in providing tax agent services in the past 10 years.

Schedule 2 Eligibility for registration as BAS agent or tax agent — prescribed requirements

(regulations 7 and 8)

Part 1 BAS agents

Division 1 Requirements

Accounting qualifications

101 A requirement is that:

- (a) the individual has been awarded at least a Certificate IV Financial Services (Bookkeeping), or a Certificate IV Financial Services (Accounting), from:
 - (i) a registered training organisation; or
 - (ii) an equivalent institution; and
- (b) has successfully completed a course in basic GST/BAS taxation principles that is approved by the Board; and
- (c) the individual has undertaken at least 1 400 hours of relevant experience in the past 3 years.

Note The Board may approve a course by an approval process, an accreditation scheme, or by other means.

Membership of professional association

102 A requirement is that:

- (a) the individual has been awarded at least a Certificate IV Financial Services (Bookkeeping), or a Certificate IV Financial Services (Accounting), from:
 - (i) a registered training organisation; or
 - (ii) an equivalent institution; and
- (b) has successfully completed a course in basic GST/BAS taxation principles that is approved by the Board; and

- (c) the individual is a voting member of:
 - (i) a recognised BAS agent association; or
 - (ii) a recognised tax agent association; and
- (d) the individual has undertaken at least 1 000 hours of relevant experience in the past 3 years.

Note 1 The Board may approve a course by an approval process, an accreditation scheme, or by other means.

Note 2 A recognised BAS agent association is explained in regulation 4. A recognised tax agent association is explained in regulation 5.

Division 2 Meaning of *relevant experience*

- 103 For Division 1, ***relevant experience*** means work by an individual:
- (a) as a tax agent registered under the Act or a BAS agent registered under the Act; or
 - (b) as a tax agent registered under Part VIIA of the *Income Tax Assessment Act 1936*; or
 - (c) under the supervision and control of a tax agent registered under the Act or a BAS agent registered under the Act; or
 - (d) under the supervision and control of a tax agent registered under the previous regulatory regime contained in Part VIIA of the *Income Tax Assessment Act 1936*; or
 - (e) of another kind approved by the Board;
- in the course of which the individual's work has included substantial involvement in 1 or more of the kinds of BAS services described in section 90-10 of the Act.

Part 2 Tax agents

Division 1 Requirements

Tertiary qualifications in accountancy

- 201 A requirement is that:
- (a) the individual has been awarded:
 - (i) a degree or a post-graduate award from an Australian tertiary institution in the discipline of accountancy; or
 - (ii) a degree or award that is approved by the Board from an equivalent institution in the discipline of accountancy; and
 - (b) the individual has successfully completed a course in commercial law that is approved by the Board; and
 - (c) the individual has successfully completed a course in Australian taxation law that is approved by the Board; and
 - (d) the individual has been engaged in the equivalent of 12 months of full-time, relevant experience in the preceding 5 years.

Tertiary qualifications in another discipline — specialists

- 202 A requirement is that:
- (a) the individual has been awarded:
 - (i) a degree or a post-graduate award from an Australian tertiary institution in a discipline other than accountancy that is relevant to the tax agent services to which the application relates; or
 - (ii) a degree or award that is approved by the Board from an equivalent institution in a discipline other than accountancy that is relevant to the tax agent services to which the application relates; and
 - (b) if the Board considers it relevant to the tax agent services to which the application relates — the individual has also successfully completed as many of the following courses as the Board considers necessary:

- (i) a course in basic accountancy principles that is approved by the Board;
 - (ii) a course in commercial law that is approved by the Board;
 - (iii) a course in Australian taxation law that is approved by the Board; and
- (c) the individual has been engaged in the equivalent of 12 months of full-time, relevant experience in the past 5 years.

Note The Board may approve a degree, award or course by an approval process, an accreditation scheme, or by other means.

Diploma or higher award

203 A requirement is that:

- (a) the individual has been awarded a diploma or higher award from:
 - (i) a registered training organisation; or
 - (ii) an equivalent institution;in the discipline of accountancy; and
- (b) the individual has successfully completed a course in Australian taxation law that is approved by the Board; and
- (c) the individual has been engaged in the equivalent of 2 years of full-time, relevant experience in the preceding 5 years; and
- (d) the individual for an application made 3 years or later after the day on which Part 2 of the *Tax Agent Services Act 2009* commences — the individual has successfully completed a course in commercial law that is approved by the Board.

Note The Board may approve a course by an approval process, an accreditation scheme, or by other means.

Tertiary qualifications in law

204 A requirement is that:

- (a) the individual:
 - (i) has the academic qualifications required to be an Australian legal practitioner; and

- (ii) has successfully completed a course in basic accountancy principles that is approved by the Board; and
 - (iii) has successfully completed a course in Australian taxation law that is approved by the Board; and
- (b) the individual has been engaged in the equivalent of 12 months of full-time, relevant experience in the preceding 5 years.

Note The Board may approve a course by an approval process, an accreditation scheme, or by other means.

Work experience

205 A requirement is that:

- (a) the individual has successfully completed:
 - (i) a course in basic accountancy principles that is approved by the Board; and
 - (ii) a course in Australian taxation law that is approved by the Board; and
 - (iii) for an application made 3 years or later after the day on which Part 2 of the *Tax agent Services Act 2009* commences — a course in commercial law that is approved by the Board; and
- (b) the individual has been engaged in the equivalent of 8 years of full-time, relevant experience in the past 10 years.

Note The Board may approve a course by an approval process, an accreditation scheme, or by other means.

Membership of professional association

206 A requirement is that:

- (a) the individual is a voting member of a recognised tax agent association; and
- (b) the individual has been engaged in the equivalent of 8 years of full-time, relevant experience in the preceding 10 years.

Note A recognised tax agent association is explained in regulation 5.

Division 2 Meaning of *relevant experience*

207 For Division 1, *relevant experience* means work by an individual:

- (a) as a tax agent registered under the Act; or
- (b) as a tax agent registered under Part VIIA of the *Income Tax Assessment Act 1936*; or
- (c) under the supervision and control of a tax agent registered under the Act; or
- (d) under the supervision and control of a tax agent registered under the previous regulatory regime contained in Part VIIA of the *Income Tax Assessment Act 1936*; or
- (e) as an Australian legal practitioner; or
- (f) of another kind approved by the Board;

in the course of which the individual's work has included substantial involvement in 1 or more of the types of tax agent services described in section 90-5 of the Act, or substantial involvement in a particular area of taxation law to which 1 or more of those types of tax agent services relate.

Table of Instruments**Notes to the *Tax Agent Services Regulations 2009*****Note 1**

The *Tax Agent Services Regulations 2009* (in force under the *Tax Agent Services Act 2009*) as shown in this compilation comprise Select Legislative Instrument 2009 No. 314 amended as indicated in the Tables below.

Table of Instruments

Year and Number	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
2009 No. 314	13 Nov 2009 (see F2009L04020)	Rr 1–3 and 11: 14 Nov 2010 Remainder: 1 Mar 2010 (see r. 2 (b) and F2009L04314)	
2010 No. 273	28 Oct 2010 (see F2010L02815)	29 Oct 2010	—
2010 No. 334	9 Dec 2010 (see F2010L03183)	10 Dec 2010	—
2011 No. 111	20 June 2011 (see F2011L01081)	21 June 2011	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
R. 3	am. 2010 No. 273
Note to r. 3	ad. 2010 No. 273
Part 1A	
Part 1A	ad. 2010 No. 273
R. 4	rs. 2010 No. 273
Division 1	
R. 4A	ad. 2010 No. 273
R. 4B	ad. 2010 No. 273
R. 4C	ad. 2010 No. 273 am. 2010 No. 334
R. 4D	ad. 2010 No. 273 am. 2010 No. 334
R. 4E	ad. 2010 No. 273
R. 4F	ad. 2010 No. 273
R. 4G	ad. 2010 No. 273
Division 2	
R. 5	rs. 2010 No. 273
R. 5A	ad. 2010 No. 273
R. 5B	ad. 2010 No. 273
R. 5C	ad. 2010 No. 273
R. 5D	ad. 2010 No. 273
R. 5E	ad. 2010 No. 273
Division 3	
R. 6	rs. 2010 No. 273
R. 6A	ad. 2010 No. 273
Part 5	
Part 5	ad. 2010 No. 273
R. 13	ad. 2010 No. 273 am. 2011 No. 111
Schedule 1	
Heading to Schedule 1	rs. 2010 No. 273
Schedule 1	am. 2010 No. 273
Schedule 2	
Schedule 2	am. 2010 No. 273