TASA Code of Professional Conduct and other compliance requirements  March 2014

Once registered you have a legal requirement to comply with the TASA Code of Professional Conduct (s30.5), and other requirements of the TAS Act. Many of the TASA Code obligations are similar to those already required of planners and licensees under the Corporations Act, ASIC Act, other relevant legislation, and the FPA Code of Professional Practice.

While this fact sheet provides an overview of the TASA requirements, you are advised to read the detail of the TASA Code of Professional Conduct and fit and proper person requirements. See www.tpb.gov.au.

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<td><strong>TASA Code requirement</strong></td>
<td><strong>Honesty and Integrity</strong></td>
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<td>1. You must act honestly and with integrity. This includes, but is not limited to:</td>
<td>Licenses have a general obligation to ensure that the financial services covered by their licence are provided efficiently, honestly and fairly. (s912A(1)(a)).</td>
<td>The following FPA professional obligations will assist you to comply with this TASA Code requirement:</td>
<td>Acting honestly and with integrity applies to both your personal and professional lives.</td>
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<td>- Straightforwardness and honesty in professional and business relationships</td>
<td>- FPA Code of Ethics Principle 2, which requires you to provide professional service with integrity; and</td>
<td>- Ensure that you have an appropriate process to facilitate client approval/sign-off or authority.</td>
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<td>- Fair dealing</td>
<td>- FPA Rules 7.1 – 7.3, 7.5</td>
<td>- Avoid or terminate clients who are determined to engage in unlawful activities.</td>
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<td>- A commitment not to mislead or deceive</td>
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<td>- Ensure your Terms of Engagement letters state that your relationship with your client may be terminated by you if you become aware of your client’s involvement in an unlawful act.</td>
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<td>- Being truthful</td>
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<td>- Acting honestly and with integrity applies to both your personal and professional lives.</td>
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<td>- Ensure your personal tax affairs are up to date with the ATO, including accurate and appropriate record keeping, prior to registering with the TPB.</td>
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<td>- Review your processes and systems to enable accurate recording and reporting of necessary records to enable you to continue to meet both your personal and business tax obligations with the ATO, in a timely manner.</td>
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<td>- This includes the timely lodgement of personal income tax returns and activity statements, payment of superannuation guarantee contributions and PAYG withholding and instalment payments.</td>
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<td>- Once you are registered with the TPB, you must continually meet your tax obligations.</td>
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<p>| | <strong>Income Tax Assessment Act</strong> | <strong>Corporations Act</strong> | <strong>ASIC may suspend or cancel your AFS licence if the Regulator is no longer satisfied that the licensee, or the licensee's representatives, are of good fame or character. (s915C(1)(b) and s913).</strong> |
| | Planners and licensees are required to comply with taxation laws under the Income Tax Assessment Act 1997 for both their personal and business tax affairs. | <strong>Asic</strong> | Non-compliance with a Commonwealth law may be judged as not being of good fame or character. |
| | <strong>Corporations Act</strong> | | Complying with the law is paramount to professionalism and ethical behaviour. |
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<td>3. <strong>If:</strong></td>
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<td>a. you receive money or other property from or on behalf of a client; and</td>
<td>Money which is held by the planner or licensee on behalf of the client for the purchase or sale of a financial product or insurance, must be deposited into: - An account with an approved foreign bank or - A cash management trust (regulations 7.8.01) of an Australian ADI (s981B(1)(a)(i)) on the day it is received, or the next business day (s981B(1)), and is taken to be held in trust by the licensee for the benefit of the client (s981H).</td>
<td>The following FPA professional obligations will assist you to comply with this TASA Code requirement: - FPA Rule 7.34 which prohibits mixing your client’s property with your property unless this is permitted by law, is expressly authorised by your client in writing, and you have sufficient record-keeping to track each client’s assets accurately.</td>
<td>Ensure your systems and processes clearly separate money or other property which you hold on trust for your client, from your personal money or other property. Review your systems and processes to ensure: - you are able to provide reports to clients, whenever requested, on any money or property you may hold on their behalf; - evidential checks and security measures are in place to demonstrate the safeguards which make certain clients’ money is only used for the purpose it was intended - representatives act within the authority granted to them by their clients’ when holding client money or other property; - client instructions for disbursing money you hold on their behalf are clearly understood by all parties and well documented.</td>
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<td>b. you hold the money or other property on trust; you must account to your client for the money or other property.</td>
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<td>4. <strong>You must act lawfully in the best interests of your client.</strong></td>
<td>The best interests obligations apply to the individual providing the personal advice to the retail client, (see s961B for details) The law - requires you to act in the best interests of the client in relation to the advice. - sets out a series of steps that, when followed, mean the best interest obligation will be met.</td>
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<td>The extent of your obligation is determined from the relationship between you and your client, and the terms of engagements between you and your client. The TAS Act requires you - not to promote your personal interest by making or pursuing a gain in circumstances in which there is a conflict (or likely conflict) between your personal interests and those of your clients - not to use your position to make a personal profit or gain unless authorised to do so by your client - to account to the client for any such unauthorised profit or gain. Acting ‘lawfully’ in the best interests of your client requires you to act in your client’s best interest but only to the extent that your actions are consistent with the law.</td>
<td>The following FPA professional obligations will assist you to comply with this TASA Code requirement: - FPA Code of Ethics Principle 1 which requires you to place your clients interests first; and - FPA Code of Ethics Principle 3 which requires you to provide your professional services objectively, with intellectual honesty and impartiality to ensure the integrity of your work, manage conflicts and exercise sound professional judgment.</td>
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<td>Ensure the terms of engagement between you and each of your clients clearly states the scope of the advice you will be providing, including the tax advice. Ensure the advice you provide meets all legal requirements, even if it means you cannot meet to client instructions: <strong>Example</strong> – Michael (aged 55) is leaving his current employer and wants to access his superannuation. He engages Tom a registered tax (financial) adviser and instructs him to help him access his super. Tom is aware that Michael has no intention of retiring and has another job lined up with a new employer. Tom advises Michael accordingly and must not act in accordance with Michael’s instructions. Ensure you comply with your Best Interest Duty under the Corporations Act (see FPA’s Guide to Bulletproof Financial Planning).</td>
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| 5. You must have in place adequate arrangements for the management of conflicts of interest that may arise in relation to the activities that you undertake in the capacity of a registered tax (financial) adviser. | Licensees  
Licensees must have in place adequate arrangements for the management of conflicts of interest in relation to activities undertaken by the licensee or a representative of the licensee in the provision of financial services (s912A (1) (aa))  
Planners  
Planners must give priority to the client’s interests when giving advice if there are competing interests between the advice provider and the client (s961J(1)) | The following FPA professional obligations will assist you to comply with this TASA Code requirement:  
- FPA Practice Standard 7.5 Conflicts of Interest and Prioritisation requires members to apply 9 standards in the provision of professional services and is intended to be read in conjunction with the member’s obligations under Division 2 of Part 7.7A of the Corporations Act 2001;  
- FPA Rules 5.2 (b), 7.10 – 7.11. | Conflict management procedures  
- maintain appropriate records and documentation detailing your conflict management policies and procedures;  
- record the action you have taken in relation to any conflicts of interest. |
| | | | Prioritise the client’s interests  
- Put in place a process to identify all interests of the planner, and related parties, that conflict with the interests of the client (RG175.367 – 175.390).  
- Review advice processes to ensure the advice and SOA clearly explain how any product recommendations made are in the client’s best interest, especially if permissible conflicted remuneration is involved.  
- Put documented arrangements in place to show how and why the planner selected products recommended to the client (eg. Advice/APL/Platform).  
Planners should retain evidence of the advice to clients they are not able to assist. |
| | | | Disclosure  
Review your conflict of interest disclosure procedures. Disclosures of conflicts of interest must be provided:  
- in a timely manner before or when the advice is provided  
- at a time that allows the client a reasonable time to assess its effect, and  
- refer to the specific service to which the conflict relates; and  
- in a clear, obvious, and specific manner.  
Discuss the conflict of interest with your client to ensure the conflict and its implications are clearly understood and meaningful to your client.  
Document your disclosure and discussion of the conflict of interest in your SOA. |
## TASA Code requirement  Confidentiality

6. Unless you have a legal duty to do so, you must not disclose any information relating to a client’s affairs to a third party without your client’s permission.

A ‘third party’ is defined by the TPB as:

- any person other than the client; and
- A third party may be situated within or outside the firm or organisation that employs the tax (financial) adviser.

You may disclose information relating to a client’s affairs to a third party, only if:

- disclosure is authorised by the client, or
- there is a legal duty to disclose.

The Australian Privacy Principle 6.1 requires you not use personal information about an individual that was collected for a particular purpose (the primary purpose), for another purpose (the secondary purpose), unless the individual has consented to the use or disclosure of the information.

The following FPA professional obligations will assist you to comply with this TASA Code requirement:

- FPA Code of Ethics Principle 7 which requires you to protect the confidentiality of all client information; and
- FPA Rules 7.23 – 7.27

Review your client consent processes to ensure you seek permission from your client to pass on necessary information to third parties, as necessary, such as:

- Licensees
- Supervisors
- Paraplanner
- Suppliers such as other professionals involved in the provision of the advice
- Software providers
- Product providers
- Regulators

Review your privacy policy to ensure it details appropriate processes and client approvals for disclosing client information to third parties necessary for providing the advice, or complying with other laws.

## TASA Code requirement  Competence

7. You must ensure that a tax (financial) advice service that you provide, or that is provided on your behalf, is provided competently.

The assurance of competence in providing a tax (financial) advice service, requires you to:

- act diligently in accordance with applicable technical and professional standards when providing a tax (financial) advice service
- to act in accordance with the terms of the client engagement carefully, thoroughly and on a timely basis
- maintain knowledge and skills at the level required to ensure that a client is provided with an appropriate standard of tax (financial) advice services; and
- exercise reasonable care in the provision of a tax (financial) advice service.

Planners

You must decline to provide the advice if you do not have the expertise to provide advice on the client’s identified subject matter (s961B(2)(d)).

Licensees

Licensees must ensure their representatives are adequately trained and are competent to provide financial services. (s912A(1)(e) and (f))

The following FPA professional obligations will assist you to comply with this TASA Code requirement:

- FPA Code of Ethics Principle 6 which requires you to maintain the abilities, skills and knowledge necessary to provide professional services competently;
- FPA Practice Standard 1.2 which requires you to determine whether you can meet the client’s needs; and
- FPA Rules 1.1 (c), 1.2, 7.30 - 7.33.

Terms of engagement

- set out and agree in a letter of engagement with your client, the scope and cost of the services to be provided,
- clearly outline what services are to be performed as part of the engagement based on the needs of your client and your skills, qualification and experience.
- Include the details of third party expertise you are/your firm may seek to assist you in providing advice to your client which may be outside your skills and knowledge areas. Include any additional costs the client may incur relating to the use of a third party expert.

Providing competent service

- Ensure familiarity of tax strategic advice.
- Outsource work to competent tax (financial) advisers where you are not familiar with particular tax strategies.
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<td>You should not provide a tax (financial) advice (or tax agent) service relating to an area of the taxation laws in which you are not properly qualified, capable or suitable, without first obtaining the necessary support of a third party expert.</td>
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<td>– obtain expert advice and assistance. Inform your client you are seeking third party expert assistance to provide them with the advice service which suits their needs. You will need consent to provide client information to third party experts (internal or external).</td>
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<td>– obtaining knowledge and skill through private study and research, and/or</td>
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<td>– inform the client of the likely delay and cost to acquire the requisite knowledge and skill to provide the service competently and obtaining the client’s voluntary consent to you providing the service. Use of third party expert</td>
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<td>– You are responsible for ensuring the service provided to your client by a third party expert engaged by you, are provided competently.</td>
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<td>– Check the third party expert is appropriately qualified, skilled and experienced, or that adequate supervision and review arrangements are in place, or that other appropriate steps are taken to ensure the accuracy of any services provided.</td>
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<td>– In relation to expert tax advice, check the third party expert is appropriately registered with the TPB to provide the advice your are seeking (ie. registered as a tax agent if you are seeking accounting expertise).</td>
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<td>– So you do not to breach confidentiality requirements, you should seek permission when you outsource work. This includes to any third parties, internal or external to your organisation.</td>
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<td>8. You must maintain knowledge and skills relevant to the tax (financial) advice that you provide.</td>
<td>Planners&lt;br&gt;You must decline to provide the advice if you do not have the expertise to provide advice on the client’s identified subject matter (s961B(2)(d)).&lt;br&gt;&lt;br&gt;Licensees&lt;br&gt;Licensees must ensure their representatives are adequately trained and are competent to provide financial services (s912A(1)(e) and (f)).</td>
<td>See TASA Continuing Professional Development fact sheet for detailed FPA requirements.</td>
<td>See TASA Continuing Professional Development fact sheet for detailed requirements and tips.</td>
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<td>The TPB has released Exposure draft TPB(EP) D5/2014 Proposed continuing professional education policy requirements for tax (financial) advisers)</td>
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| 9. You must take reasonable care in ascertaining a client’s state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement you are making or a thing you are doing on behalf of the client. | - You are required to comply with this principle if you are acting on behalf of a client in relation to a taxation law. This could include a superannuation law.  
- The requirement to take reasonable care is limited by the scope of the engagement between you and your client in relation to the tax (financial) advice service you provide.  
- ‘Reasonable care’ means what is reasonable in the circumstances and depends upon:  
  - the scope of the tax (financial) advice services being provided and  
  - the client’s level of professional knowledge and experience | The following FPA professional obligations will assist you to comply with this TASA Code requirement:  
- FPA Practice Standards:  
  1. Engagement  
  2. Collecting your Client’s Information; and  
  3. Analyse your Client’s Financial Status; and  
- FPA Rules 3.1 – 3.3. | Appropriate knowledge  
- Ensure you are appropriately trained in the tax laws relevant to subject matter of the advice your client is seeking.  
Advice processes  
- Review financial advice processes to ensure they facilitate a thorough understanding of your client’s circumstances.  
- Review your ‘know your client’ fact find  
  • ask your client appropriate questions, based on your professional knowledge and experience, to identify your client’s current circumstances in relation to tax issues (including tax, super and SMSF) relevant to the advice you are providing.  
  • ask your client to provide supporting documents and records evidencing their tax circumstances which may be relevant to the advice you are providing  
Client warning  
- Review your client warning about incomplete or inaccurate information – include information relating to the tax circumstances of your client.  
Documentation  
To demonstrate that you have taken reasonable care, ensure you clearly articulate in a Terms of Engagement letter what is within and outside the scope of the advice you will be providing to your client, as agreed to between you and your client.  
As a means of record keeping, ensure the SOA clearly articulates the tax component of the advice process you have undertaken, including:  
- an analysis of the client’s current situation including details of their tax position  
- the tax consequences and risks associated with the client’s current strategy  
- the implications of any proposed financial planning recommendations you make, particularly the tax implications for the client’s consideration |

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| 10. You must take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client. | You must act in the best interests of the client (s961B) Resulting advice must be appropriate to the client (s961G) | The following FPA professional obligations will assist you to comply with this TASA Code requirement:  
- FPA Code of Ethics Principle 5: Professionalism;  
- FPA Practice Standards  
  - 3.1 Analyse your client’s information;  
  - 4 Identify suitable financial planning strategies and develop the financial planning recommendations; and  
  - 7.4 Professional judgement; and  
- FPA Rules 4.5, 4.7, 4.10 - 4.12. | Ensure your fact find includes research on the tax laws relevant to the subject matter and scope of the advice being provided.  
Ensure the tax component of the advice you provide to clients is accurately documented.  
Consider seeking assistance from TPB registered tax expert.  
**Documented evidence and record keeping**  
To demonstrate that you have taken reasonable care, ensure you clearly articulate in a Terms of Engagement letter what is within and outside the scope of the advice you will be providing to your client, as agreed to between you and your client.  
As a means of record keeping, ensure the SOA articulates:  
- an analysis of the client’s current situation including their tax position,  
- the tax consequences and risks associated with the client’s current strategy and any proposed financial planning recommendation.  
- how the advice would be reasonably likely to meet the client’s relevant circumstances.  
- an accurate summary of the client’s relevant circumstances  
- the agreed scope of the advice agreed between you and your client.  
Review your tax calculation systems to ensure they are immediately updated with all changes to the tax laws, to ensure calculations provided to clients are accurate and reliable. |

If you are uncertain about how a taxation law applies to a particular set of circumstances, taking reasonable care may include seeking clarification from relevant authorities and sources such as:  
- legislation and related extrinsic material (for example, explanatory memoranda)  
- relevant case law  
- tax rulings and determinations  
- ATO fact sheets and practice statements  
- information published or provided by a recognised professional association or other regulatory agency; or  
- information or relevant commentaries published by other experts, registered agents or specialists.

In consulting relevant authorities and sources, you may choose to seek assistance from another appropriately qualified person who has the ability and resources to provide advice on taxation laws.
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| **Fitness and propriety**        | To grant an ASFL, ASIC must be satisfied you are of good fame and character (s913B(2) and (4)). Relevant considerations include: | The following FPA professional obligations will assist you to comply with this TASA requirement: | Be aware the TPB and TAS Act have a set criteria for good fame, integrity and character which differ to those in the Corporations Act. Licensees  
Review your due diligence procedures for checking potential employees, authorised representatives, and company trustees. Planners  
Review your due diligence procedures for checking potential |
|                                   | – any conviction within 10 years before the application was made, for an offence that involves dishonesty and is punishable by imprisonment for at least 3 months; and | – FPA Code of Ethics Principle 2, which requires you to provide professional service with integrity; and  
– FPA Rules 7.1 – 7.3, 7.5 | – Employees  
– Licensees, if you are considering changing |
|                                   | – whether the person has held an AFSL that was suspended or cancelled; and |                                  | licensee |
|                                   | – whether a banning order has previously been made against the person. |                                  |         |
|                                   | ASIC may cancel or suspend your license if you cease to be of good fame and character (s915C(1) (b)) |                                  |         |
|                                   | TPB registration may be terminated or suspended if you cease to be ‘fit and proper’. (See TPB (EP) 02/2010: Fit and proper person) |                                  |         |
| **Professional Indemnity Insurance** | Licensees must have arrangements for compensating retail clients for losses they suffer as a result of a breach by the licensee or its representatives of their obligations in Ch 7 of the Corporations Act. (s912B) | The following FPA professional obligations will assist you to comply with this TASA requirement: | See TASA Professional Indemnity Insurance Fact Sheet for tips. |
|                                   | See TASA Professional Indemnity Insurance fact sheet for detailed requirements. | – FPA Code of Ethics Principle 5:  
Professionalism; and  
– FPA Rule 7.6  
Complying with the law is paramount to professionalism and ethical behaviour.  
The FPA does not have additional PII requirements for members. |         |
|                                   |                                  |                                  |         |
|                                   |                                  |                                  |         |

Licensees must have arrangements for compensating retail clients for losses they suffer as a result of a breach by the licensee or its representatives of their obligations in Ch 7 of the Corporations Act. (s912B) See TASA Professional Indemnity Insurance fact sheet for detailed requirements.
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| Obstruction                   | Obstructing or hindering ASIC etc.               | The following FPA professional obligations will assist you to comply with this TASA requirement:  
- FPA Code of Ethics Principle 5 which requires you to behave with dignity and show respect and courtesy to clients, fellow professionals, and others in business-related activities, and comply with appropriate rules, regulations and professional requirements.  
- FPA Rules 4.5, 4.7, 4.10 - 4.12 | – You should not deliberately hide documents from availability in the event of audits  
– Review your document storage and retrieval procedures to ensure they are appropriate and enable you to accurately and easily identify and access documents when requested. |
| Test of reasonableness:       | You must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under this Act. (s1310) | Complying with the law is paramount to ensuring you are fit and proper. Review your due diligence procedures for checking the person's history.  
- professional qualifications  
- criminal convictions  
- bankruptcy  
- tax exploitation scheme  
- failure to respond adequately to formal requests for information  
- imprisonment for at least 3 months; and  
- service a term of imprisonment in whole or in part.  
- TPB or ATO requests for information  
- bankruptcy  
- tax exploitation scheme  
- failure to respond adequately to formal requests for information  | |
| Obstructing or hindering ASIC etc. | You must not, without lawful excuse, obstruct or hinder ASIC, or any other person, in the performance or exercise of a function or power under this Act. (s1310) | Complying with the law is paramount to ensuring you are fit and proper. Review your due diligence procedures for checking the person's history.  
- professional qualifications  
- criminal convictions  
- bankruptcy  
- tax exploitation scheme  
- failure to respond adequately to formal requests for information  
- imprisonment for at least 3 months; and  
- service a term of imprisonment in whole or in part.  
- TPB or ATO requests for information  
- bankruptcy  
- tax exploitation scheme  
- failure to respond adequately to formal requests for information  | |
| Advise client’s rights         | Obstructing or hindering ASIC etc.               | The following FPA professional obligations will assist you to comply with this TASA requirement:  
- FPA Code of Ethics Principle 5 which requires you to behave with dignity and show respect and courtesy to clients, fellow professionals, and others in business-related activities, and comply with appropriate rules, regulations and professional requirements.  
- FPA Rules 4.5, 4.7, 4.10 - 4.12 | Review your advice processes  
– Analyse the client’s current situation including their tax position  
– Consider the tax consequences and risks associated with the client’s current strategy and any proposed strategy in making a financial planning recommendation.  
– Include specific taxation rights and obligations and hence risks and consequences in your advice to your client in your financial planning recommendations.  
– Document your clients rights and obligations  
- Identify  
  - the tax laws that are materially related to the scope of the advice you are providing to your client  
  - the clients rights and obligations of the materially related tax laws |
| Test of reasonableness:       | You must advise your client of the client’s rights and obligations under the taxation laws that are materially related to the tax (financial) advice you provide.  
- For a client’s rights and obligations to be materially related to the tax (financial) advice services provided, a connection between the rights and obligations and the tax (financial) advice services is required. This connection must be substantial, rather than so tenuous that it is immaterial or can be ignored  
- This requirement is limited to the scope of the engagement between you and your client in relation to the tax (financial) advice service you provide. | Review your advice processes  
– Analyse the client’s current situation including their tax position  
– Consider the tax consequences and risks associated with the client’s current strategy and any proposed strategy in making a financial planning recommendation.  
– Include specific taxation rights and obligations and hence risks and consequences in your advice to your client in your financial planning recommendations.  
– Document your clients rights and obligations  
- Identify  
  - the tax laws that are materially related to the scope of the advice you are providing to your client  
  - the clients rights and obligations of the materially related tax laws |
| Planners                      | You must make reasonable inquiries to obtain complete and accurate information relating to the client’s relevant circumstances (s961B(2)(c))  
If your advice is based on incomplete or inaccurate information, you must provide a warning to your client to consider the appropriateness of your advice before acting on your advice. This warning should be included in your SOA. (s961H) | Review your advice processes  
– Analyse the client’s current situation including their tax position  
– Consider the tax consequences and risks associated with the client’s current strategy and any proposed strategy in making a financial planning recommendation.  
– Include specific taxation rights and obligations and hence risks and consequences in your advice to your client in your financial planning recommendations.  
– Document your clients rights and obligations  
- Identify  
  - the tax laws that are materially related to the scope of the advice you are providing to your client  
  - the clients rights and obligations of the materially related tax laws |
| Test of reasonableness:       | You must make reasonable inquiries to obtain complete and accurate information relating to the client’s relevant circumstances (s961B(2)(c))  
If your advice is based on incomplete or inaccurate information, you must provide a warning to your client to consider the appropriateness of your advice before acting on your advice. This warning should be included in your SOA. (s961H) | Review your advice processes  
– Analyse the client’s current situation including their tax position  
– Consider the tax consequences and risks associated with the client’s current strategy and any proposed strategy in making a financial planning recommendation.  
– Include specific taxation rights and obligations and hence risks and consequences in your advice to your client in your financial planning recommendations.  
– Document your clients rights and obligations  
- Identify  
  - the tax laws that are materially related to the scope of the advice you are providing to your client  
  - the clients rights and obligations of the materially related tax laws |
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| Respond to the TPB           | Licensees are required to respond to requests for information from ASIC within a reasonable time and as directed (s912C). | The following FPA professional obligations will assist you to comply with this TASA requirement:  
- FPA Code of Ethics Principles  
  • 2: Integrity; and  
  • 5 Professionalism;  
- FPA Practice Standards  
  • 7.1 You are required to conduct yourself in a professional and ethical manner; and  
  • 7.5(5) Duty to profession; and  
- FPA Rules 7.3, 7.6 | Review your systems and processes to ensure they enable you to draw reports and access relevant information in response to TPB, in a timely manner. |

- Advise your client of these rights and obligations  
- Document the materially related tax laws and your client’s rights and obligations under these laws, in the SOA in a clear and understandable manner.  
- These rights and obligations and may include, but are not limited to:  
  • the client’s obligation to keep proper records for tax purposes and the consequences of not doing so  
  • that the responsibility for the accuracy and completeness of the information required to comply with the taxation laws rests with the client  
  • The right to seek a private ruling or how to object or appeal against adverse decisions made by the ATO and how they would then need to employ a registered tax agent.  

- Respond to the TPB  
You must respond to requests and directions from the TPB in a timely, responsible and reasonable manner.  

Examples of failures to respond to a TPB request or direction in a timely, responsible and reasonable manner may include:  
- failing to provide written responses to TPB correspondence within the time period specified for the response  
- making arrangements with the TPB to provide information and subsequently failing to provide that information in accordance with the arrangement  
- providing responses to TPB requests and/or directions that are false or misleading.
### Tax Agent Services requirement

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| You must not provide financial advice if you do not hold an AFSL. | The following FPA professional obligations will assist you to comply with this TASA requirement:  
- FPA Code of Ethics Principle 5: Professionalism; and  
- FPA Rule 7.6  
Complying with the law is paramount to professionalism and ethical behaviour. | See Civil Penalties of the TASA regime fact sheet for detailed requirements, penalties and tips. |
| **Civil penalties:**  
If you are not registered with the TPB, you may incur a civil penalty if you  
- Provide a tax (financial) advice service to a retail client for a fee  
- Advertise that you provide tax (financial) advice services; or  
- Represent yourself as a registered tax (financial) advice service.  
Once you are registered with the TPB, civil penalties may apply if you:  
- Sign a tax related declaration or document in relation to a client that was not prepared by you or a registered agent under your supervision. (See s50.30 for detail)  
- Make false or misleading statements (s50.20)  
- Employ or use the services of an individual / company who was deregistered by the TPB within the previous twelve months (see s50.25 for conditions) |  |  |

### Consequences for breaches of the TASA Code and other compliance requirements

A registered tax (financial) adviser is required to comply with all the obligations set out in the Code and TAS Act. The TPB may impose one or more of the following administrative sanctions for non-compliance:

- a written caution  
- an order requiring you to take one or more actions such as  
  - completing a course of education or training specified by the TPB  
  - providing services only under the supervision of another tax (financial) adviser that has been specified in the order; and/or  
  - providing only those services specified in the order  
- suspension of registration, and/or  
- termination of registration.

If the TPB imposes a sanction, other than a caution, details of the sanction will be included on the register of registered and deregistered tax (financial) advisers.

Conduct that constitutes a breach of the Code may also lead to a determination of whether you are a fit and proper person, or whether the civil penalty provisions will apply to your conduct. Civil penalties incur a fine.

Disclaimer: The views expressed in this document are indicative only and do not take account of your personal circumstances. In addition, these views are not in any way binding on the registration authority, the Tax Practitioners Board (TPB). The FPA strongly recommends that all outstanding issues in relation to registration and other such matters be resolved directly with the TPB. The regulations in relation to tax (financial) advice services have not been finalised by Government.