

AGENDA PAPER

Item Number: 15 (a)
Date of Meeting: 29 August 2016
Subject: Annual review of APES 220 *Taxation Services*

Action required For discussion For noting For information

Purpose

In accordance with Accounting Professional & Ethical Standards Board's (APESB) constitution, an annual review of APES 220 *Taxation Services* (APES 220) has been performed to identify and resolve any issues identified by stakeholders.

Background

APESB originally issued APES 220 in October 2007. Since then APES 220 has been revised twice – once in March 2011 and then again in October 2015. The 2015 revised version has an effective date of 1 January 2016.

Consideration of Issues

APESB Technical Staff have completed the following procedures to identify any issues associated with APES 220:

- Consulted with the Professional Bodies to identify whether Members or other stakeholders have raised any issues with the Professional Bodies in respect of APES 220;
- Reviewed the APESB Issues Register to identify whether stakeholders have reported any matters in relation to APES 220; and
- Performed an internal technical review of APES 220.

The issues identified as a result of completion of the above procedures are set out below.

Laws and regulations

There were a few issues raised by Professional Bodies in the annual review of APES 220 that focused on laws and regulations. These issues were:

- a) References to law and regulations in APES 220 could be interpreted as being too narrow as the mandatory provisions specifically refer to Taxation Law rather than broadly referring to applicable laws and regulations. It was raised that Members should have an

understanding of local whistleblowing and anti-money laundering laws and not just Taxation Laws.

- b) APES 220 could provide greater clarity on the need for Members to comply with the “spirit of the law” as well as “the letter of the law”. The aim of this clarification would be to address growing community concern about aggressive tax avoidance practices. Technical Staff note that this obligation is referenced in most of the other APESB standards as well.
- c) Member are required under APES 220 Paragraph 3.11 to maintain professional competence and take due care when performing Taxation Services. The issue that was noted is as to whether members need reminding that to comply with this provision Members may need to understand foreign laws and regulations as well.

Technical Staff believe that APES 220 could include additional guidance in respect of the matters noted above in order to enhance clarity to Members in respect of their professional obligations.

Technical Staff note that APESB is planning a project (refer to Agenda Paper 13) to review all of its pronouncements to implement the *Responding to Non-Compliance with Laws and Regulations* (NOCLAR) provisions recently released by the International Ethics Standards Board for Accountants (IESBA). The issues relating to laws and regulations in APES 220 could be considered in conjunction with this NOCLAR project.

Outsourcing

A Professional Body noted that APES 220 could include specific reminders about outsourcing obligations by referring to Part A of the Code (specifically paragraph 130.5) or to APES GN 30 *Outsourced Services*.

There are generic references in APES 220 which refer to sections of the Code that discuss outsourced services. Paragraph 4.3 in APES 220 also considers tax lodgement services provided to other parties where Members in Public Practice need to review any returns (including relevant documentation) lodged through this service. However, additional guidance could be included in APES 220 under the section *Professional competence and due care* to clarify Member’s professional and ethical obligations when using outsourced services. Consideration of additional guidance will occur in the next revision of APES 220.

Cyber Security

Paragraph 11.3 of APES 220 provides guidance on storing documentation electronically. Feedback was provided that this guidance could be expanded to consider cyber security. Technical Staff believes that the issue of cyber security is broader than APES 220 and should be considered as part of APESB’s project on digital disruption.

Recommendation

Technical Staff recommend that amendments to APES 220 identified as part of the annual review be addressed as follows:

- laws and regulations issues to be considered in conjunction with the NOCLAR project;
- the cyber security issue to be considered as part of the digital disruption project; and
- the outsourcing issue to be addressed in the next revision of APES 220.

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Date: 5 August 2016