

29 November 2024

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Via Email: [tpbsubmissions@tpb.gov.au](mailto:tpbsubmissions@tpb.gov.au)

Dear Michael,

## **TPB Consultation on the Draft Information Sheets 56/2024 to 61/2024**

Accounting Professional & Ethical Standards Board Limited (APESB) welcomes the opportunity to make a submission on the Tax Practitioners Board's (TPB) consultation on draft Information Sheets 56/2024 to 61/2024.

Many registered tax practitioners are members of the three major professional accounting bodies: Chartered Accountants Australia and New Zealand (CA ANZ), CPA Australia and the Institute of Public Accountants (IPA). Members of these three bodies who provide taxation services are also required to comply with APESB pronouncements, including [APES 110 Code of Ethics for Professional Accountants \(including Independence Standards\)](#) (APES 110), [APES 220 Taxation Services](#) (APES 220) and [APES 320 Quality Management for Firms that provide Non-Assurance Services](#) (APES 320). Therefore, APESB and TPB must provide cohesive and coordinated materials to inform and guide the expected professional and ethical behaviours of those individuals who provide taxation services.

## **Review of Draft Information Sheets**

In reviewing the six draft Information Sheets included in the TPB's consultation, APESB reviewed them through the lens of the applicable professional and ethical standards that apply in specific circumstances.

Subject to the matters raised in this submission, APESB is supportive of the proposed information sheets. We believe the draft Information Sheets will be a vital resource for registered tax practitioners to understand and comply with their obligations when providing tax services in accordance with the TPB Code.

APESB appreciates that the draft information sheets include references to APES 110, APES 220, APES 320 and [APES GN 30](#) *Outsourced Services*. This approach facilitates registered tax practitioners who are also members of a professional accounting body and have existing professional obligations to understand how they may be already complying with the TPB's requirements and identify relevant additional professional and ethical obligations that they need to comply with due to the changes to the TPB Code.

In reviewing the Draft Information Sheets, we have identified some matters for the TPB's consideration, which we have set out in Appendix A. The issues are clarifying some of the proposed guidance and updating outdated references to APESB pronouncements.

### **APESB projects relating to Tax Planning and Related Services**

As noted in our [submission](#) to the TPB in September 2024, APESB is currently undertaking two projects that are of interest to the TPB. One is on Tax Planning and Related Services, and the other is to review APES 220 *Taxation Services*. Both projects ultimately aim to incorporate the revisions of the International Ethics Standards Board for Accountants (IESBA's) Tax Planning and Related Services to the Australian Code.

APESB has completed an exposure draft process for both projects, and our Board will consider the proposed amendments to the revised APES 110 and APES 220 at its 9 December 2024 meeting. We want to take this opportunity to thank the TPB Secretariat for collaborating with our staff during the APESB exposure draft consultation process and providing valuable input.

### **Concluding Comments**

We trust you find these comments useful in your deliberations. If you wish to discuss this further or require additional information, please contact APESB's Chief Executive Officer, Channa Wijesinghe, at [channa.wijesinghe@apesb.org.au](mailto:channa.wijesinghe@apesb.org.au).

Yours sincerely



Nancy Milne OAM  
**Chairman**

Draft Information Sheet and paragraph		Suggested Change	Comments
<b>TPB(I) D57/2024 – Upholding and promoting the ethical standards of the tax profession</b>			
Paragraph 13	This paragraph includes the statement, 'Registered tax practitioners are responsible for the conduct of any unregistered individuals, such as employees, contractors and any other assistants providing tax agent services on their behalf, in order to meet their obligations as registered tax practitioners.'	To consider clarifying the conduct relates to providing taxation services.	The sentence should be revised to clarify that registered tax practitioners are responsible for the conduct of unregistered individuals regarding the provision of taxation services.
<b>TPB(I) D57/2024 – False or misleading statements</b>			
Paragraph 32	Explains that Misleading Statements as “a statement is misleading if it creates a false impression, <u>even if it is literally true.</u> ”	To consider the deletion of the text “ <u>even if it is literally true.</u> ” We believe such a change would provide enhanced clarity to the proposed guidance.	APESB wishes to reiterate our comment in our <a href="#">submission</a> in September 2024 that we are concerned with the underlined text in this guidance as it may create confusion for tax practitioners when assessing what constitutes a false impression. (see <i>Comments on specific paragraphs – TPB(I) D54/2024 – Paragraph 26</i> ).
Footnote 26	In particular, see the APESB Code of Ethics (APES110) and Taxation Services Pronouncement (APES220), found at <a href="https://apesb.org.au/standards-guidance/">https://apesb.org.au/standards-guidance/</a> .	To update the name of APES 110 to the 'Code of Ethics for Professional Accountants (including Independence Standards) (the APESB Code of Ethics) and correct the spacing for “APES 110” and “APES 220”.	Editorial changes only.
Footnote 31	The APESB Code of Ethics provides further guidance about ethical letters.	Consider specifically referring to APES 110, Section 320 <i>Professional Appointments</i> , which deals with changes in a professional appointment.	APES 110 paragraphs 320.5 A1 to 320.7 A2 outline the requirements for communicating with the existing, predecessor or proposed accountant when determining whether to accept an engagement.  We believe that TPB should consider incorporating a reference to Section 320 <i>Professional Appointments</i> of APES 110, in the footnote.

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<b>TPB(I) D58/2024 – Managing conflicts of interest when undertaking activities for the government and maintaining confidentiality in dealings with the government</b>			
Paragraph 14	<p>It is also noted that the Accounting Professional and Ethical Standards Board (APESB) has released <a href="#">APES 110 Code of Ethics for Professional Accountants</a> (APES 110) and <a href="#">APES 220 Taxation Services</a> (APES 220), which apply to members of relevant professional bodies that have adopted it. While not binding on all registered tax practitioners, these standards provide useful guidance on what steps a registered tax practitioner can take to ensure they have adequate arrangements in place for the management of conflicts of interest that may arise in relation to activities that are undertaken in their capacity as a registered tax practitioner. APES 110 notes, among other things, that a member is required to not allow conflict of interests to override professional or business judgments,<sup>9</sup> while APES 220 Taxation Services also outlines requirements as to objectivity.</p>	<p>To correct the name of APES 110 to be the <i>Code Ethics for Professional Accountants (including Independence Standards)</i>.</p> <p>Consider updating the reference link to APES 110 and APES 220 upon the release of the latest versions.</p> <p>Alternatively, the links to these standards could be amended to the general webpage for these specific pronouncements to ensure readers are always directed to the current in-force version. For example:</p> <ul style="list-style-type: none"> <li>• APES 110 could be directed towards the Code of Ethics page - <a href="https://apesb.org.au/standards-guidance/apes-110-code-of-ethics/">https://apesb.org.au/standards-guidance/apes-110-code-of-ethics/</a></li> <li>• APES 220 directed to the taxation services page - <a href="https://apesb.org.au/standards-guidance/taxation-services/">https://apesb.org.au/standards-guidance/taxation-services/</a></li> </ul>	<p>APESB noted the inclusion of current versions, APES 110 (June 2023) and APES 220 (July 2019), in TPB(I) D58/2024.</p> <p>APESB is in the process of releasing a new Compiled APES 110, incorporating <a href="#">revisions for the definitions of Listed Entity and Public Interest Entity</a> (issued November 2023) and <a href="#">Technology-related revisions</a> (issued June 2024).</p> <p>APESB expects to issue the new Compiled APES 110 by the end of 2024.</p> <p>In July 2024, APESB released two exposure drafts, <a href="#">ED 02/24</a> and <a href="#">ED 03/24</a>, for proposed revisions to APES 220 and APES 110 to address tax planning and released services. The review of the outcome of the exposure draft due process will be presented to the Board at the December 2024 Board meeting. The revised standards are proposed to be effective from 1 July 2025.</p>
Case study 2	Agency authorises continued engagement following disclosure of conflict of interest.	Additional controls should be considered in the arrangements, such as prohibiting tax agents from conducting engagements with clients who may be impacted by the proposed policy changes during the period that they are consulting with the government.	APESB wishes to reiterate our comment in our <a href="#">submission</a> in September 2024 that even if the tax agent has disclosed material conflicts of interest and mitigation measures to the government agency, it is also important that the government agency also has adequate controls to assess the tax agent's compliance during the engagement with the government (see <i>Comments on specific paragraphs – TPB(I) D55/2024 – Case study 2</i> ).

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<b>TPB(I) D59/2024 – Obligation to keep proper client records of tax agent services provided.</b>			
<p>No specific matters were noted for further consideration with respect to TPB's proposed Text.</p> <p>However, we encourage TPB to make a general reference to APES 220 <i>Taxation Services</i> and APES 320 <i>Quality Management for Firms that provide Non-Assurance Services</i>, which also incorporate documentation requirements for Tax Practitioners who are Professional Accountants.</p>			
<b>TPB(I) D60/2024 – Supervision, competency and quality management under the <i>Tax Agent Services Act 2009</i></b>			
Footnote 10	<p>The Accounting Professional and Ethical Standards Board (APESB) standard APES 110 Code of Ethics for Professional Accountants (APES 110) also applies to registered tax practitioners who are members of one of the joint accounting bodies. R113.2 requires members to take reasonable care to ensure that those working in a professional capacity under the member's authority have appropriate training and supervision. In addition, paragraph 3</p>	<p>To correct the name of APES 110 to be the <i>Code Ethics for Professional Accountants (including Independence Standards)</i>.</p> <p>Consider whether the term 'joint accounting bodies' clearly indicates to users that it refers to the three professional accounting bodies (Chartered Accountants Australia and New Zealand (CA ANZ), CPA Australia and the Institute of Public Accountants (IPA)).</p>	Proposed editorial changes for TPB's consideration.
Footnote 24	<p>For registered tax practitioners who are members of one of the joint accounting bodies, consideration should also be given to APES 110, which considers factors in determining the level of supervision required. In addition, paragraph 3.13 of APES 220 requires members to be competent when providing a tax service. See <a href="http://www.apesb.org.au">www.apesb.org.au</a>.</p>	<p>To consider referencing paragraph 4.29 of <a href="#">APES 320 Quality Management for Firms that provide Non-Assurance Services (February 2022)</a> (with the link going to the webpage (<a href="https://apesb.org.au/standards-guidance/quality-management-for-firms-that-provide-non-assurance-services/">https://apesb.org.au/standards-guidance/quality-management-for-firms-that-provide-non-assurance-services/</a>) rather than directly to the current PDF)</p>	<p>Paragraph 4.29 of APES 320 provides examples of factors to consider in determining the level of supervision required for assigning engagement teams.</p> <p>We believe that TPB could enhance its guidance by providing this additional reference in the footnote.</p>
Footnote 32	<p>APESB standard <i>APES 320 Quality Control for Firms</i> (APES 320) also applies to registered tax practitioners who are members of one of the joint accounting bodies. Paragraph 61 of APES 320 considers the elements of engagement supervision, including the tracking of progress, and considering of the competence and capabilities of individual</p>	<p>To update the reference link to the reissued version of <a href="#">APES 320 Quality Management for Firms that provide Non-Assurance Services (February 2022)</a> (with the link going to the webpage (<a href="https://apesb.org.au/standards-guidance/quality-management-for-firms-that-provide-non-assurance-services/">https://apesb.org.au/standards-guidance/quality-management-for-firms-that-provide-non-assurance-services/</a>) rather than directly to the current PDF)</p>	<p>The APES 320 Quality Control for Firms version included in TPB(I) D60/2024 has been replaced by APES 320 Quality Management for Firms that provide Non-Assurance Services, which was issued in February 2022.</p> <p>TPB could refer to <a href="#">the Mapping Table</a>, which has been prepared to assist users of APES 320 navigate</p>

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	members of the engagement. See <a href="http://www.apesb.org.au">www.apesb.org.au</a> .	To update the reference to paragraph 4.41 of reissued APES 320 (replacing paragraph 61).	to the corresponding provisions in the superseded APES 320.
Footnote 34	For registered tax practitioners who are members of one of the joint accounting bodies, consideration should also be given to paragraphs 39 and 57 of APES 320, which consider factors relating to competence, capabilities and resources, in addition to factors in determining the level of supervision required. See <a href="http://www.apesb.org.au">www.apesb.org.au</a> .	To update the reference link to the reissued version: <a href="https://apesb.org.au/standards-guidance/quality-management-for-firms-that-provide-non-assurance-services">APES 320 Quality Management for Firms that provide Non-Assurance Services (February 2022)</a> (with the link going to the webpage <a href="https://apesb.org.au/standards-guidance/quality-management-for-firms-that-provide-non-assurance-services/">https://apesb.org.au/standards-guidance/quality-management-for-firms-that-provide-non-assurance-services/</a> rather than directly to the current PDF).  To update the reference to paragraphs 4.11 and 4.29 of reissued APES 320 (replacing paragraphs 39 and 57).	APES 320 <i>Quality Control for Firms</i> version included in TPB(I) D60/2024 has been replaced by APES 320 <i>Quality Management for Firms that provide Non-Assurance Services</i> issued in February 2022.  TPB could refer to the Mapping Table, which has been prepared to assist users of APES 320 in navigating to the corresponding provisions in the superseded APES 320.
Footnote 59	Refer to APES 320 Quality Management for Firms that provide Non-Assurance Services (APES 320) as reissued by the APESB in February 2022 and published on the APESB website. Accessible at: <a href="https://apesb.org.au/wp-content/uploads/2022/02/APES_320_reissued_Feb_2022.pdf">https://apesb.org.au/wp-content/uploads/2022/02/APES_320_reissued_Feb_2022.pdf</a> .	The reference to APES 320 could be streamlined by referring to the webpage for this standard ( <a href="https://apesb.org.au/standards-guidance/quality-management-for-firms-that-provide-non-assurance-services/">https://apesb.org.au/standards-guidance/quality-management-for-firms-that-provide-non-assurance-services/</a> ) rather than directly to the current PDF. This would ensure users always access the current in-force standard.	Updating references to standards to future-proof the guidance.
<b>TPB(I) D61/2024 – Keeping your clients informed</b>			
Paragraph 24	Under paragraph 45(1)(c) of the Determination, registered tax practitioners must advise all current and prospective clients of general information about: <ul style="list-style-type: none"> <li>• their rights, responsibilities and obligations as a registered tax practitioner, including to their client, under the taxation laws (including the TASA and Code), and</li> <li>• what obligations their clients have to their registered tax practitioner.</li> </ul>	Consider referencing paragraphs 3.17 and 3.18 of APES 220, which set requirements for Members providing taxation services to advise clients about their rights, obligations and responsibilities.	TPB could consider the inclusion of references to APES 220 in the footnote, in which: <ul style="list-style-type: none"> <li>• Paragraph 3.17 requires Members to advise clients on the rights, obligations, and options of both parties under the Taxation Law, including seeking private rulings, lodging objections and appeals, and understanding any possible penalties and other legal consequences.</li> <li>• Paragraph 3.18 requires Members to advise clients in writing of their responsibility for ensuring the accuracy and completeness of the information provided; any advice given to clients is based on knowledge of the client's</li> </ul>

Draft Information Sheet and paragraph		Suggested Change	Comments
			particular circumstances; and taxpayers have obligations under self-assessment to keep full and proper records.