



30 July 2012

Mr Mark Maskell
Secretary of the Board
Tax Practitioners Board
PO Box 9825
PENRITH NSW 2740

By email: tpbsubmissions@tpb.gov.au

Dear Mr Maskell,

RE: Information Sheet – TPB (I) D13/2012 – Code of Professional Conduct – Holding money or other property on trust

Accounting Professional & Ethical Standards Board Limited (APESB) welcomes the opportunity to make a submission on the Tax Practitioners Board's (TPB) exposure draft on *Subsection 30-10(3) of the Tax Agent Services Act 2009: Code of Professional Conduct (Code item 3)*.

APESB's role

APESB is governed by an independent board of directors. Its primary objective is to develop and issue, in the public interest, appropriate professional and ethical standards which apply to the membership of the three major Australian professional accounting bodies. A secondary objective of APESB is to provide an opportunity or forum for the discussion and consideration of issues relating to professional and ethical standards for accountants. APESB is funded by the three major accounting bodies, but has complete independence in its standard-setting activities.

In setting standards, we endeavour to incorporate a strong emphasis on professionalism and the role of sound judgement in those accountants obliged to follow our standards. We believe that setting high quality standards with demanding criteria contributes to the professional standing and behaviour of members of the accounting profession.

APESB's standards applicable to members who provide taxation services and who hold money or other property in trust

Many registered tax agents are members of one of the three major Australian professional accounting bodies and therefore must comply with the standards issued by the APESB. The APESB standards that are primarily applicable to members who provide tax related services are APES 110 *Code of Ethics for Professional Accountants* and APES 220 *Taxation Services*. APES 310 *Dealing with Client Monies* is the APESB standard that applies specifically to members in public practice who deal with monies that are the property of a client and to which the member has no present entitlement.

Additionally, Section 270 *Custody of client assets* of APES 110 requires members to comply with the fundamental ethical principles when they have custody of client assets.

We have reviewed the *TPB Information Sheet TPB(I) D13/2012* (the Information Sheet) and, apart from the exception noted in the paragraph below, believe that the requirements of the Code of Professional Conduct contained within this Information Sheet are generally consistent with the requirements of our professional standards APES 110 and APES 310. We acknowledge and appreciate your reference to APES 310 in the Information Sheet.

Our review of the Information Sheet noted the inclusion of 'pre-paid fees' in item 13 as an example of money held on trust. In APES 310, APESB has defined Client Monies to exclude pre-paid professional fees paid to the member and therefore APES 310 does not apply to such payments. Pre-paid professional fees are generally received under the terms of the member's engagement document with the client and therefore the member does have an entitlement to the monies subject to performing the relevant service. If by 'pre-paid fees' the Information Sheet actually refers to other professional fees such as those to be paid to a third party on behalf of the client, then we recommend that this clarification be included in the Information Sheet.

Overall Comment

We commend the Board for publishing the draft Information Sheet. Subject to our comments on pre-paid fees, APESB is supportive of the Tax Practitioners Board's Information Sheet which clarifies the content and application of requirements of Subsection 30-10(3) of the *Tax Agent Services Act 2009: Code of Professional Conduct*.

If you would like to discuss further or require any additional information, please do not hesitate to contact me on 0418 836984 or Mr. Channa Wijesinghe, Technical Director on 03 96424372 or email at channa.wijesinghe@apesb.org.au.

Yours sincerely

A handwritten signature in cursive script that reads "Kate Spargo".

Kate Spargo
Chairman