

# APES 220 Taxation Services

[Supersedes APES 220 Taxation Services issued in July 2018]

REVISED: July 2019

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## Contents

	<b>Section</b>
Scope and application .....	1
Definitions .....	2
Fundamental responsibilities of Members .....	3
- Public interest	
- Integrity and professional behaviour	
- Objectivity	
- Independence obligations	
- Confidentiality	
- Professional competence and due care	
Preparation and lodgement of returns to Revenue Authorities .....	4
Tax schemes and arrangements .....	5
Estimates .....	6
False or misleading information .....	7
Professional Engagement matters.....	8
Client Monies .....	9
Professional fees .....	10
Documentation.....	11

*Conformity with International Pronouncements*

*Appendix 1: Summary of revisions to the previous APES 220 (Issued in July 2018)*

## 1. Scope and application

- 1.1 The objectives of APES 220 *Taxation Services* are to specify a **Member's** professional and ethical obligations in respect of:
- fundamental responsibilities when the **Member** performs a **Taxation Service** for a **Client** or **Employer**;
  - preparation and lodgement of returns to **Revenue Authorities**;
  - association with tax schemes and arrangements;
  - the use of estimates;
  - false and misleading information;
  - professional **Engagement** matters;
  - **Client Monies**;
  - professional fees; and
  - documentation.
- 1.2 Accounting Professional & Ethical Standards Board Limited (APESB) has revised professional standard APES 220 *Taxation Services* (**the Standard**), which is effective from 1 January 2020 and supersedes APES 220 issued in July 2018. Earlier adoption of this Standard is permitted.
- 1.3 APES 220 sets the standards for **Members** in the provision of quality and ethical **Taxation Services**. The mandatory requirements of this Standard are in **bold-type**, preceded or followed by discussion or explanations in normal type. APES 220 should be read in conjunction with other professional duties of **Members**, and any legal obligations that may apply.
- 1.4 **Members in Australia shall follow the mandatory requirements of APES 220 when they provide Taxation Services.**
- 1.5 **Members outside of Australia shall follow the provisions of APES 220 to the extent to which they are not prevented from so doing by specific requirements of local laws and/or regulations.**
- 1.6 **Members shall comply with other applicable Professional Standards and be familiar with relevant guidance notes when performing Professional Activities. All Members shall comply with the fundamental principles outlined in the Code.**
- 1.7 The Standard is not intended to detract from any responsibilities which may be imposed by law or regulation.
- 1.8 All references to **Professional Standards**, guidance notes and legislation are references to those provisions as amended from time to time.
- 1.9 In applying the requirements outlined in APES 220, **Members** should be guided not merely by the words but also by the spirit of this Standard and the **Code**.
- 1.10 In this Standard, unless otherwise specified, words in the singular include the plural and vice versa, words of one gender include another gender, and words referring to persons include corporations or organisations, whether incorporated or not.

## 2. Definitions

Defined terms are shown in the body of the Standard in title case.

For the purpose of this Standard:

**Assurance Engagement** means an [Engagement](#) in which a [Member in Public Practice](#) aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the subject matter information (that is, the outcome of the measurement or evaluation of an underlying subject matter against criteria).

This includes an [Engagement](#) in accordance with the *Framework for Assurance Engagements* issued by the [AUASB](#) or in accordance with specific relevant standards, such as International Standards on Auditing, for Assurance Engagements.

(For guidance on Assurance Engagements, see the *Framework for Assurance Engagements* issued by the [AUASB](#). The *Framework for Assurance Engagements* describes the elements and objectives of an Assurance Engagement and identifies [Engagements](#) to which *Australian Auditing Standards* (ASAs), *Standards on Review Engagements* (ASREs) and *Standards on Assurance Engagements* (ASAEs) apply.)

**AUASB** means the Australian statutory body called the Auditing and Assurance Standards Board established under section 227A of the *Australian Securities and Investments Commission Act 2001*.

**Client** means an individual, firm, entity or organisation to whom or to which [Professional Activities](#) are provided by a [Member in Public Practice](#) in respect of [Engagements](#) of either a recurring or demand nature.

**Client Monies** means any monies (in whatever form) coming into the control of a [Member in Public Practice](#) or any of the [Member's](#) personnel which are the property of a [Client](#) and includes monies to which the [Member](#) or the [Member's](#) personnel have no present entitlement.

**Code** means APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)*.

**Employer** means an entity or person that employs, engages or contracts a [Member in Business](#).

**Engagement** means an agreement, whether written or otherwise, between a [Member in Public Practice](#) and a [Client](#) relating to the provision of [Professional Services](#) by a [Member in Public Practice](#). However, consultations with a prospective [Client](#) prior to such agreement are not part of an Engagement.

**Firm** means:

- (a) A sole practitioner, partnership, corporation or other entity of professional accountants;
- (b) An entity that controls such parties, through ownership, management or other means;
- (c) An entity controlled by such parties, through ownership, management or other means; or
- (d) An Auditor-General's office or department.

**Member** means a member of a [Professional Body](#) that has adopted this Standard as applicable to their membership, as defined by that [Professional Body](#).

**Member in Business** means a [Member](#) working in areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory or professional bodies, who might be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer.

**Member in Public Practice** means a **Member**, irrespective of functional classification (for example, audit, tax or consulting) in a **Firm** that provides **Professional Services**. This term is also used to refer to a **Firm** of Members in Public Practice and means a practice entity and a participant in that practice entity as defined by the applicable **Professional Body**.

**Professional Activity** means an activity requiring accountancy or related skills undertaken by a **Member**, including accounting, auditing, tax, management consulting, and financial management.

**Professional Bodies** means Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants.

**Professional Services** means **Professional Activities** performed for **Clients**.

**Professional Standards** means all standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable **Professional Body**.

**Revenue Authorities** include various levels of government authorities or similar institutions which have legislative powers to impose and/or collect taxes.

**Taxation Law** means law and/or regulation of any level of government imposing a tax or otherwise dealing with tax, and includes any such laws and regulations that describe direct and indirect taxes, levies, surcharges, penalties or similar charges imposed by various levels of governments or similar institutions on economic transactions.

**Taxation Services** means any **Professional Activities** performed by a **Member** relating to ascertaining a **Client's** or **Employer's** tax liabilities or entitlements or satisfying their obligations under a **Taxation Law**, provided under circumstances where they can reasonably expect to rely on the **Professional Activities**. This includes:

- (a) preparation of a return, notice, statement, application or other document for lodgement with a **Revenue Authority**, and responding on behalf of a **Client** or **Employer** to the **Revenue Authority's** requests for further information;
- (b) preparation of tax calculations to be used as the basis for the accounting entries in the financial statements;
- (c) provision of tax planning and other tax advisory services; and
- (d) assisting a **Client** or **Employer** in the resolution of tax disputes.

**Those Charged with Governance** means the person(s) or organisation(s) (for example, a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process. For some entities in some jurisdictions, Those Charged with Governance might include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager.

**Writing** means a mode of representing or reproducing words in a visible form and includes words in an electronic format capable of being converted to printed text.

### 3. Fundamental responsibilities of Members

3.1 **A Member providing Taxation Services shall at all times safeguard the interests of their Client or Employer provided that such services are delivered in accordance with Part 1 Complying with the Code, Fundamental Principles and Conceptual Framework of the Code and relevant law, including applicable Taxation Law.**

## Public interest

- 3.2 In accordance with Section 100 *Complying with the Code* of the **Code**, a **Member** shall observe and comply with the **Member's** public interest obligations when they provide **Taxation Services**.

## Integrity and professional behaviour

- 3.3 In accordance with the fundamental principles of integrity and professional behaviour contained in the **Code**, a **Member** providing **Taxation Services** shall ensure that their own personal tax obligations and those of any associated entities for which the **Member** is responsible are properly discharged.

## Objectivity

- 3.4 When providing **Taxation Services** a **Member** shall be objective in accordance with Subsection 112 *Objectivity* of the **Code**. A **Member** shall maintain an impartial attitude and recommend options that meet the **Client's** or **Employer's** interests consistent with the requirements of the law.
- 3.5 A **Member** may act as an advocate for a **Client** or **Employer** when representing or assisting them before the courts or certain tribunals. However, a **Member** acting in such a capacity before any court or tribunal should ensure that the **Client** or **Employer** is aware that the **Member** has an obligation not to mislead the court or tribunal and to safeguard his or her professional objectivity.
- 3.6 If a conflict of interest arises due to the **Member** being asked to act as an advocate for a **Client** or **Employer** before a court or tribunal in respect of **Professional Activities** the **Member** provided, the **Member** shall comply with Part 1 *Complying with the Code, Fundamental Principles and Conceptual Framework* and Section 210 *Conflicts of Interest (for Members in Business)* or Section 310 *Conflicts of Interest (for Members in Public Practice)* of the **Code**.

## Independence obligations

- 3.7 When a **Member in Public Practice** is providing **Taxation Services** to a **Client** and the **Member's Firm** is also engaged to conduct an **Assurance Engagement** for the same **Client**, the **Member** shall comply with Part 4A *Independence for Audit and Review Engagements* or Part 4B *Independence for Assurance Engagements Other than Audit and Review Engagements* of the **Code**, as applicable.

## Confidentiality

- 3.8 A **Member** who acquires confidential information in the course of performing a **Taxation Service** for a **Client** or **Employer** shall comply with Subsection 114 *Confidentiality* of the **Code**.
- 3.9 Unless the **Member** has a legal, regulatory or professional obligation of disclosure, a **Member** shall not convey any information relating to a **Client's** or **Employer's** affairs to a third party without the **Client's** or **Employer's** permission.
- 3.10 Where a **Client** has given a **Member in Public Practice** permission to disclose confidential information to a third party, it is preferable that this permission is in **Writing**. Where oral permission is obtained, a contemporaneous note should be made and kept on file by the **Member** recording the relevant details of the **Client's** approval.

- 3.11 Unless the **Member** has a legal obligation of disclosure, a **Member** shall not furnish to the **Revenue Authorities** any opinions or written advice of a third party who is acting in a specialist capacity on specific aspects of the **Professional Activity**, without the prior knowledge and express consent of that third party.
- 3.12 Where a **Member** provides confidential information in accordance with a legal, regulatory or professional obligation of disclosure, the **Member** shall notify the **Client**, **Employer** or relevant third party as soon as practical, provided that there is no legal prohibition against such notification.

### Professional competence and due care

- 3.13 A **Member** engaged in providing a **Taxation Service** shall maintain professional competence and take due care in the performance of the **Member's** work in accordance with Subsection 113 *Professional Competence and Due Care* of the **Code**.
- 3.14 Competent **Taxation Service** requires the exercise of sound judgement in applying professional knowledge and skill in the performance of such **Professional Activities**. Due care imposes the obligation of acting diligently in accordance with applicable technical and **Professional Standards** when providing a **Taxation Service**.
- 3.15 **Members** should, therefore, refrain from performing any **Taxation Services** which they are not competent to carry out unless expert advice and assistance are obtained to ensure that the **Professional Activities** are performed to a standard agreed with the **Client** or **Employer** or as required by law.
- 3.16 If applicable to the **Engagement**, a **Member** should obtain an understanding of relevant foreign laws and regulations sufficient to enable the provision of competent **Taxation Services**. Where the **Member** does not have the necessary knowledge of the foreign laws and regulations, they should engage the services of an expert to ensure the **Professional Activities** are performed to the required standard.
- 3.17 A **Member** shall maintain open, frank and effective communications with a **Client** or **Employer**. In this regard:
- (a) where appropriate, in the context of the **Member's** agreed scope of work, a **Member** shall advise a **Client** or **Employer** of both the **Member's** and the **Client's** or **Employer's** rights, obligations and options available under the **Taxation Law**. A **Member** shall also advise the **Client** or **Employer** of their rights or options available under **Taxation Law** with respect to the seeking of a private ruling and the lodging of objections and appeals against adverse positions adopted by the **Revenue Authorities**; and
  - (b) in the context of **Taxation Services** requested, a **Member** shall advise a **Client** or **Employer** on the application of the **Taxation Law**, including any possible penalties and other legal tax consequence, so as to allow the **Client** or **Employer** to make an informed decision of the course of action to be taken.
- 3.18 A **Member in Public Practice** shall provide a **Client** with a statement in **Writing** that:
- (a) the responsibility for the accuracy and completeness of the particulars and information provided by the **Client** rests with the **Client**;
  - (b) any advice given to the **Client** is only an opinion based on the **Member's** knowledge of the **Client's** particular circumstances; and
  - (c) a taxpayer has obligations under self-assessment to keep full and proper records in order to facilitate the preparation of accurate returns.

3.19 The communication of the matters in paragraph 3.18 to the **Client** in **Writing** need not be in the form of a letter. For example, a standard format handout, brochure, leaflet or electronic communication is also acceptable.

3.20 Where the application of the **Taxation Law** is not certain, a **Member** shall not represent to a **Client** or **Employer** that the results of a **Taxation Service** (such as the tax or other revenue returns which the **Member** prepares or assists in preparing, or the tax advice the **Member** offers) are beyond challenge.

#### 4. Preparation and lodgement of returns to Revenue Authorities

4.1 A **Member** shall prepare and/or lodge returns and other relevant documents required to be lodged with a **Revenue Authority** in accordance with the information provided by a **Client** or **Employer**, their instructions, and the relevant **Taxation Law**.

4.2 Where appropriate, a **Member** may accept a **Client's** or **Employer's** information, and is not responsible for its veracity. However, within the agreed scope of work, a **Member** should obtain information which is sufficient to allow the **Member** to form a view as to the application of the law to that information and to be able to recommend the options available to the **Client** or **Employer** on how the information provided by them may be reflected in the relevant return or other documents to be lodged. Where a **Member** reasonably believes that the information provided by the **Client** or **Employer** may be incomplete, false or misleading, the **Member** should have regard to the provisions of paragraph 7.3 of this Standard and the law.

4.3 Where a **Member in Public Practice** provides a tax lodgement service to another party and a significant portion of the work associated with the revenue returns and other relevant documents is not performed under the supervision of the **Member**, the **Member** shall perform sufficient reviews of the revenue returns and other relevant documents in accordance with this Standard and the **Code** prior to lodgement of these revenue returns.

#### 5. Tax schemes and arrangements

5.1 The decision to enter into any tax scheme or arrangement will always be that of the **Client** or **Employer**.

5.2 Where appropriate, having regard to the **Member's** agreed scope of work, a **Member** shall give the **Client** or **Employer** sufficient information to enable the **Client** or **Employer** to be fully informed of the details of the scheme or arrangement and its current and future ramifications including the risks and uncertainties, particularly in relation to possible changes in **Taxation Law**.

5.3 A **Member** shall not knowingly or recklessly be associated with any arrangement which involves documents or accounting entries that are intended to misrepresent a transaction or which depend upon lack of disclosure for its effectiveness.

5.4 A **Member** shall not promote, or assist in the promotion of, or otherwise encourage any tax schemes or arrangements where the dominant purpose is to derive a tax benefit, and it is not reasonably arguable that the tax benefit is available under **Taxation Law**<sup>1</sup>. Accordingly, a **Member** shall not provide advice on such a scheme or arrangement to a **Client** or **Employer** other than to advise that in the **Member's** opinion it is not effective at law.

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<sup>1</sup> **Members** should consider applicable legal precedents, in addition to the laws and regulations relating to the promoter penalty regime in Division 290 of Schedule 1 to the *Taxation Administration Act 1953*.

- 5.5 If a **Member** is uncertain that a tax scheme or arrangement is of the type set out in paragraph 5.4, the **Member** should consider:
- (a) consulting with the **Client**, **Employer**, or **Those Charged with Governance**, as applicable;
  - (b) if necessary, consulting with an in-house legal counsel or obtaining independent legal advice;
  - (c) if necessary, and with the **Client** or **Employer's** consent, consulting with the applicable **Revenue Authority**; and
  - (d) documenting the substance of the tax scheme or arrangements and key matters considered by the **Member** in assessing whether the tax scheme or arrangement is not of the type set out in paragraph 5.4.
- 5.6 Paragraph 5.4 does not preclude a **Member** from advising a **Client** or **Employer** on the resolution of such matters and providing other **Taxation Services**.
- 5.7 Provided that the provisions of paragraphs 5.3 and 5.4 do not apply, a **Member** may otherwise provide **Taxation Services** to a **Client** or **Employer** who has entered into a tax scheme or arrangement.
- 5.8 **In respect of an entity that predominantly promotes tax schemes or arrangements, a **Member** shall not:**
- (a) have any financial interest in such an entity; or
  - (b) render any **Professional Service** to such an entity where the **Member** knows that the **Member's** immediate or close family has a financial interest.

## 6. Estimates

- 6.1 **A **Member** shall not prepare or be associated with the preparation of returns or submissions to **Revenue Authorities** involving the use of estimates unless their use is generally accepted or, under the circumstances, it is impracticable to obtain exact data.**
- 6.2 **When estimates are used, a **Member** shall present them in such a manner as to avoid the implication of greater accuracy than in fact exists.**
- 6.3 **A **Member** shall consider whether the use of an estimate is reasonable in the particular circumstance. Where a **Member** has reason to believe an estimate is not reasonable, the **Member** shall advise the **Client** or **Employer** of the risks and consequences of using the relevant estimate in the return or submission to be lodged with the **Revenue Authorities**.**

## 7. False or misleading information

- 7.1 **A **Member** shall not provide a **Taxation Service** to a **Client** or **Employer** if the **Member** finds that information on which the **Taxation Service** is to be based contains false or misleading information or omits material information and the **Client** or **Employer** is not prepared to appropriately amend it.**
- 7.2 **A **Member** shall not knowingly or recklessly make a statement or cause another to make a statement in or in connection with a **Taxation Service** that, by its content or by an omission, is false or misleading in a material manner.**
- 7.3 **Where a **Member** forms the view that a **Taxation Service** is based on false or misleading information or the omission of material information, the **Member** shall**

**discuss the matter with the Client or Employer and advise them of the consequences if no action is taken.**

7.4 Where a Member finds that a Client or Employer has filed returns or submissions in previous years (with which the Member may or may not have been associated) that contain materially false or misleading information or omit material information, the Member should discuss the matter with the Client or Employer and advise them of their responsibilities.

7.5 In the event of a Member subsequently becoming aware that information previously provided to a Revenue Authority by the Member, which the Member had no reason to believe at the time to be incorrect, is false or misleading, the Member should recommend that the Client or Employer make an appropriate disclosure or, alternatively, the Member should obtain authority from them to make the disclosure on their behalf.

7.6 **A Member in Public Practice who:**

- (a) knows that a Client or the Member on behalf of the Client has filed a return or submission materially understating a tax liability to a Revenue Authority, and
- (b) finds the Client unwilling to correct such understatement,

**shall consider the Firm's policies and procedures established in accordance with *Acceptance and Continuance of Client Relationships and Specific Engagements of APES 320 Quality Control for Firms* in determining whether to continue acting for the Client in a professional capacity.**

7.7 Where a Member in Business is faced with similar circumstances, the Member is referred to Part 2 *Members in Business (including employment relationships of Members in Public Practice)* of the Code.

7.8 **A Member who encounters or becomes aware of instances of non-compliance or suspected non-compliance with laws and regulations when providing Taxation Services shall comply with Section 260 *Responding to Non-Compliance with Laws and Regulations (for Members in Business)* or Section 360 *Responding to Non-Compliance with Laws and Regulations (for Members in Public Practice)* of the Code.**

7.9 All references to false and misleading information in this section exclude information that is of an immaterial or inconsequential nature.

## **8. Professional Engagement matters**

8.1 **A Member in Public Practice shall provide the Client with an appropriate statement in Writing outlining the relevant terms of the Engagement to provide the Taxation Service in accordance with APES 305 *Terms of Engagement*.**

8.2 The provision of this statement to the Client in Writing need not be in the form of a letter. For example, a standard format handout, brochure, leaflet or electronic communication is also acceptable.

8.3 **A Member in Public Practice who is approached by a potential Client to undertake a Taxation Service shall comply with the requirements of Section 320 *Professional Appointments* of the Code.**

8.4 **A Member in Public Practice who has utilised the services of a third party in connection with the performance of a Taxation Service, such as a legal opinion to support the provision of taxation advice, shall not disclose the relevant opinion or the name of that third party without the prior consent of that party.**

8.5 **A Member consulting with others in relation to a Client's or Employer's affairs shall observe the requirements of Subsection 114 *Confidentiality* of the Code.**

- 8.6 A **Member in Public Practice** should consider the guidance in APES GN 30 *Outsourced Services* if the **Member** engages or outsources to a third party, either components or all aspects of, the **Taxation Service** performed for the **Client**.

## 9. Client Monies

- 9.1 A **Member in Public Practice** shall ensure prompt transmission of **Client Monies** received on behalf of a **Client** from **Revenue Authorities** to the **Client** in accordance with the requirements of APES 310 *Client Monies*.
- 9.2 A **Member in Public Practice** shall not use, withhold or otherwise appropriate tax refunds to settle the fees of the **Member** or for any other use in lieu of their transfer directly to the **Client** unless agreed to by the **Client** in **Writing**.
- 9.3 Where funds are to be banked by a **Member in Public Practice** on behalf of a **Client**, a **Member** shall use a separate bank account designated as a trust account and maintained in accordance with the requirements of APES 310 *Client Monies*.

## 10. Professional fees

- 10.1 A **Member in Public Practice** providing **Taxation Services** shall be remunerated for such **Professional Services** by way of professional fees computed in accordance with Section 330 *Fees and Other Types of Remuneration* of the **Code**.

## 11. Documentation

- 11.1 A **Member** shall prepare working papers in accordance with this Standard that appropriately document the work performed, including aspects of the **Taxation Service** that have been provided in **Writing** in accordance with this Standard, and the basis on which, and the method by which, any calculations, determinations or estimates used in the provision of the **Taxation Service** have been made.
- 11.2 A **Member** should adopt appropriate procedures for maintaining the confidentiality and safe custody of working papers and for retaining them for a period sufficient to meet the needs of the **Member** and in accordance with legal requirements of record retention and privacy.
- 11.3 Nothing in this Standard precludes the storage of documentation in appropriate electronic formats. **Members** contemplating the use of electronic storage should consider the legal implications of such forms of storage, which may vary by jurisdiction, and seek appropriate advice in this context. **Members** should consider security and privacy risks over information stored electronically and adopt appropriate measures (such as the implementation of IT security controls including up-to-date security software) to address such risks.

### **Conformity with International Pronouncements**

The International Ethics Standards Board for Accountants (IESBA) has not issued a pronouncement equivalent to APES 220.

## Appendix 1

### Summary of revisions to the previous APES 220 (Issued in July 2018)

APES 220 *Taxation Services* was originally issued in October 2007 and revised in March 2011, October 2015 and July 2018. APES 220 has been revised by APESB in July 2019. A summary of the revisions is given in the table below.

**Table of revisions\***

Paragraph affected	How affected
1.2	Amended
1.5	Amended
1.6	Amended
2 – Introduction Paragraph	Amended
2 – Definition of Assurance Engagement	Amended
2 – Definition of Code	Amended
2 – Definition of Member in Business	Amended
2 – Definition of Member in Public Practice	Amended
2 – Definition of Professional Activity	Amended
2 – Definition of Those Charged with Governance	Amended
2 – Definition of Writing	Amended
3.1	Amended
3.2	Amended
3.3	Amended
3.4	Amended
3.6	Amended
3.7	Amended
3.8	Amended
3.9	Amended
3.10	Amended
3.11	Amended
3.12	Amended
3.13	Amended
5.4	Amended
7.7	Amended
7.8	Amended
8.3	Amended
8.5	Amended
10.1	Amended

\* Refer Technical Update 2019/3