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Tax Practitioners Board  
GPO Box 1620  
SYDNEY NSW 2001

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

Dear Sir/Madam,

**Re: Discussion Paper – TPB (DP) D1/2020 – Tax Practitioners Board:  
Continuing professional education requirements for tax practitioners under  
the *Tax Agent Services Act 2009***

The National Tax and Accountants' Association ('NTAA') welcomes the opportunity to be part of the consultation process and to provide feedback into the review of the Tax Practitioners Board ('TPB') in relation to Continuing Professional Education (CPE) requirements for tax practitioners.

The NTAA is a national member-based not-for-profit association, with over 10,000 member firms, representing a considerable proportion of the registered tax agent population.

Since 1992, the NTAA has been dedicated to helping and providing support to tax agents, primarily through the delivery of tax-based seminars and its National Hotline Service. Overall, the NTAA's aim is to educate its Registered Tax Agent members in a way that enables them to provide high quality and practical tax advice to their clients, whilst complying with their obligations under the Tax Agent Services Act 2009 ('TASA'), including the Code of Professional Conduct ('the Code').

The NTAA also represents the interests of the broader tax community. In particular, the NTAA regularly:

- participates in several ATO forums and consultative groups;
- makes submissions on tax policy-related issues; and
- works with tax agents to resolve any disputes with the ATO.

**NTAA's preliminary comments and observations**

The NTAA acknowledges the importance of CPE, not only legislatively, but in ensuring that Registered Tax Agents ('RTAs') are competent to provide tax agent services. Accordingly, it is appropriate and necessary that RTAs keep proper records so as to demonstrate they have complied with their CPE obligations. In that regard, it is also important that the CPE policy be



clear as possible as to what those obligations are without being overly prescriptive and burdensome on tax practitioners.

Further, the regulation of CPE must be in such a way that facilitates the ultimate objective of maintaining and developing the tax technical knowledge of RTAs.

The NTAA propose that the TPB's review of CPE under TASA achieve the following objectives:

- the current pragmatic approach of the TPB is maintained;
- the TPB continues to recognise that each RTA has a vested interest in undertaking structured and unstructured CPE that is relevant to the needs of their clients and the tax agent services that they provide;
- the RTA must have flexibility in the CPE subject area or type undertaken to ensure relevance to the RTA's area of practice and to not be pigeonholed into areas or types of CPE activities or sub-categories of CPE;
- the RTA's attendance at structured training offerings by organisations such as the NTAA and other TPB recognised professional associations, should automatically (and without further enquiry) be accepted as CPE relevant to the tax agents services of the RTA;
- the completion and content of CPE must maintain the current balance between prescribed regulatory standards and the professional judgement of RTAs as to what CPE is required in context of the specific practice area of the RTA; and
- the unstructured component of CPE is maintained.

### **NTAA's comments on the Discussion Paper – TPB CPE requirements**

The NTAA's specific comments on each of the Consultation Points raised in the Discussion Paper are detailed below.

Note that any reference to:

- 'RTA' is a reference to a Registered Tax Agent;
- 'EP' is a reference to the Explanatory Paper, TPB (EP) 4/2012; and
- 'FASEA' is a reference to the Financial Adviser Standards and Ethics Authority.

### **Purpose of CPE**

**Q1.** Do you have any comment regarding continuation of the TPB's current approach to the purpose of CPE (see paragraphs 16 and 18 in this discussion paper)? If you do not agree, please provide reasons.

The NTAA agrees with the TPB's current approach to the purpose of CPE.

### **Hours requirement**

**Q2.** Is the proposed minimum CPE hours requirement appropriate (40 hours per annum for all tax practitioners), or should it be changed to something else (and if so, how much and why)?

The NTAA submits that the minimum triennial CPE hours and minimum yearly requirement should not be increased.

The NTAA has no specific opinion on whether all tax practitioners (excluding conditional agents) should complete the same CPE hours.

The NTAA acknowledges that some of the reasons advanced by the TPB to raise the CPE hours warrant careful consideration, however, on balance the NTAA does not believe they should lead to an increase of the minimum CPE hours of RTAs to 40 hours per annum.

It is unclear to the NTAA whether there is actual evidence that the current triennial requirements are inadequate, even in light of the points raised in the Discussion Paper.

As stipulated in the Discussion Paper at paragraph 20, the current triennial requirements of 90 CPE hours are the minimum requirements.

In this respects, RTAs are under an obligation:

- to exercise appropriate professional judgement to ensure the number of CPE hours they complete is sufficient to maintain their knowledge and skills to competently service their clients based on the work they do;
- the current CPE framework places an appropriate and adequate onus on RTAs to assess the increasingly complex business and regulatory environment in which they operate and adapt to increase their CPE training above the minimum requirements, where appropriate.

By way of example, the NTAA note that during the more recent changes to the superannuation system which occurred during 2016/2017 year, attendance at our NTAA operated national seminar series on superannuation increased significantly, demonstrating the commitment and desire of practitioners to learn and keep abreast with law changes in the constant challenging environment in which they operate.

Further, the NTAA contends that the inherent nature of an accounting practice requires RTAs to undertake a considerable volume of:

- on-the-job training such as professional reading and interaction with professional colleagues;
- participation in various discussion groups and technical forums including ATO and TPB forums; and
- continual research and updating of professional knowledge.

The above (non-exhaustive list) constitutes a very significant component of RTAs being able to provide tax agent services in compliance with the Code.

The NTAA is of the opinion that the current minimum triennial 90 CPE hours is appropriate when viewed in light of the existing framework that may require RTAs to undertake additional CPE over and above the 90 hours to adapt to the type of tax agent service they provide and regulatory changes that may exist from time to time.

**Q3.** Do you have any comment regarding continuation of the TPB's current approach to maintaining the lower CPE requirement for certain conditional tax practitioners (see paragraphs 19 and 25 in this discussion paper)?

The NTAA agrees with the proposal to continue to allow a lower CPE requirement for conditional agents under the current regime.

**Q4.** Should the TPB incorporate any specific comment or requirement in relation to subject areas/categories – in particular, should the TPB:

- i. recommend areas/types to be completed by tax practitioners (without being prescriptive as to minimum hours in specific subject areas), or
- ii. mandate a minimum number of hours in CPE subject areas/categories similar to FASEA's approach, or
- iii. make no further changes/comment (do neither of the above)?

The NTAA disagrees with the proposal for the TPB make recommendations as to particular areas/type of CPE.

The NTAA's basis for this position is as follows:

- the current non-prescriptive policy provides RTAs with the flexibility to exercise their professional judgment in selecting the CPE they undertake. This policy clearly reflects the fact that each RTA is in the optimal position to decide which activities they will obtain the most benefit from; and
- there is a high risk that specifying particular CPE areas/types is a 'one-size-fits-all' approach that will force RTAs into undertaking CPE they do not need. This is potentially a waste of time and money for the RTA.

The NTAA further strongly disagrees with any proposal to mandate a minimum number of hours in CPE subject areas or categories.

Whilst it is appropriate to mandate a minimum number of CPE hours overall, it is overly onerous and unnecessary to create minimum hours for sub-categories.

The NTAA also does not support any proposal that requires pre-approval and accreditation by the TPB of CPE subject areas/type or categories and minimum number of hours in relation to each individual RTA's CPE program.

The NTAA is of the opinion that in relation to RTAs under TASA, any proposal to pre-approve CPE activity would create unnecessary red-tape and potentially reduce the flexibility that RTAs currently have in making ongoing up-to-date decisions based on their practice needs at that time.

The NTAA believe that it is important for RTAs to be able to adapt the CPE areas of study to the constantly changing regulatory landscape and the business they operate in without having to:

- specify upfront CPE area/types or categories for approval; and
- seek additional approval to make amendments to the CPE program if a change is desired or required

Accordingly, the NTAA recommends that no changes or further changes be adopted in relation to these proposals.

**Q5.** Do you have any suggestions about how the TPB should implement any changes to its CPE requirements in relation to the minimum number of hours and/or subject areas required, noting that the TPB would allow for sufficient lead-in time for any changes?

For example, should the TPB employ a calendar-year model starting from 1 January, or commence application of any changes from a practitioner's next registration renewal?

The NTAA believes that, to the extent the minimum number hours of CPE an RTA must complete are increased, the requirement to complete those hours over a 3-year period should be maintained rather than moving to an annual system.

The current system already sets a minimum annual requirement (i.e., 10 hours) and there does not appear to be a reason to alter this. If anything, it would be more appropriate to raise the minimum number of hours required annually rather than moving to an annual system.

**Q6.** Should the TPB's requirements be reduced for tax practitioners who work part-time? If so, on what basis and to what extent should the TPB's requirements be reduced?

The NTAA does not agree that the amount of minimum CPE hours should be reduced for RTAs who work part-time. Whilst the volume of tax agent services provided by an RTA who works part-time may be reduced, the knowledge they require of the taxation laws is not. However, if a part-time RTA only provided limited tax agent services, they could seek a conditional registration and access a reduced minimum of CPE hours.

For example, an RTA who only prepared 'I' returns for salary and wage earners 20 hours per week could be registered on the condition they only provide those particular tax agent services. It would, then, not be inappropriate for them to be required to complete a reduced minimum number of hours of CPE. However, if they sought non-conditional registration they should not be eligible for a reduced requirement.

**Q7.** Do you have any feedback in relation to the TPB's proposed view regarding CPE activities (see paragraphs 26 to 28, and paragraphs 31 to 33 in this discussion paper)?

The NTAA agrees with the proposal to leave the current (non-exhaustive) listing of example CPE activities unchanged. The NTAA also agrees with the proposal to maintain the approach that CPE needs to be relevant to the tax agent services provided.

However, as reflected in the comments at Consultation Point Q4 above, the NTAA strongly disagrees with the proposal to require a minimum amount of CPE activities by an area or type or recommendation by the TPB as to what areas/type RTAs should complete.

We acknowledge the importance of CPE, not only legislatively, but in ensuring that RTAs are competent to provide tax agent services. Accordingly, it is appropriate that RTAs keep proper records so as to be able demonstrate they have complied with their CPE obligations. In that regard, it is important that the CPE policy be clear as possible as to what those obligations are.

Whilst it is implicit that an RTA must be able to demonstrate how the CPE completed relates to the tax agent services they provide, the NTAA supports the TPB's proposal to employ clearer language, to the extent it further clarifies and provide details and examples of what may be required to demonstrate this, as opposed to placing more onerous obligations for RTAs to satisfy.

Note our further comments at Consultation Point Q9 below.

**Q8.** Do you agree with the TPB maintaining the 25% reading allowance (see also paragraph 21 in this discussion paper)?

The NTAA agrees with the TPBs proposal to maintain the 25% reading allowance. This type of unstructured CPE is a mainstay of an RTAs process for keeping up to date and should be recognised as such. However, it is also important that RTAs engage in structured CPE that has been tailored to meet the needs of a modern tax practice.

The NTAA believes that a 25% limit adequately recognises the importance of professional and technical reading as a key part of the maintenance and development of an RTAs skills, knowledge and competence.

**Q9.** Do you have any suggestions on how tax practitioners should be required to demonstrate that the CPE completed reflects their service offerings (for example, what evidence should be required, and how frequently)?

Should the TPB require CPE logs to contain sufficient detail to explain how a tax practitioner's professional or technical reading is relevant to the tax services provided?

The NTAA finds this Consultation Point somewhat concerning. The NTAA contends that it should be accepted that the starting proposition is that any CPE activity undertaken by an RTA is relevant to the tax agent services they provide. This is on the basis that an RTA would not commit resources to undertaking the activity unless it was of benefit to them and their practice.

However, this Consultation Point suggests that, despite the fact the TPB has access to the information contained in the RTA's CPE log, there remains a further requirement for the RTA to 'demonstrate' how those activities recorded in the log are relevant to the tax agent services.

The NTAA envisages that the relevance of the activity will be obvious in the vast majority of cases. It is fully acknowledged that there will instances where the entry may not have been recorded with sufficient clarity or detail to be obvious. It is clearly appropriate in these cases to require the RTA to provide additional information.

It is also unclear whether, by raising this Consultation Point, there are any specific issues the TPB is concerned about. For example, has the TPB, in the past, experienced situations where the majority of the entries in an RTAs CPE log do not have an obvious relevance to the tax agent services they provide? Is there a suspicion that certain activities have been undertaken because they are low, or no, cost without regard to whether they are relevant to the tax agent services provided by the RTA?

The NTAA is also concerned in the case the TPB expects RTAs to link or relate the CPE activity back to specific tax agent services they have provided. For example, if an RTA attended a seminar that covered a wide range of taxation issues, would the RTA be required to have provided specific tax agent services in relation to each of the areas covered? If this is the case, the NTAA believes it is highly inappropriate.

The NTAA recommends that the TPB:

- supports a pragmatic risk-based compliance approach;
- not require RTAs to record in CPE logs the level of details required to explain the relevance of the CPE to the to the specific tax services provided; and

- enable RTAs to continue to self-assess and self-regulate as to how the CPE they have undertaken reflects their service offerings, unless further information is required in an event of a review.

## Recognition of other CPE

**Q10.** Do you have any feedback in relation to the TPB's proposed approach to recognising CPD/CPE undertaken to satisfy requirements of other bodies, including TPB Recognised professional associations and FASEA (see paragraphs 34 to 37, and paragraphs 40 to 41 in this discussion paper)?

The NTAA agrees with the TPB's proposed approach to recognising CPD/CPE undertaken to satisfy the requirements of other bodies including the TPB recognised professional associations and FASEA.

## Approval of CPE activities/providers

**Q11.** Do you have any comment regarding continuation of the TPB's current approach to approval of CPE activities/providers (see paragraph 42 in this discussion paper)?

The NTAA believes it is appropriate for the TPB to continue with its current approach.

## Record keeping requirements

**Q12.** What evidence/level of detail should the TPB require from tax practitioners to assure compliance with the TPB's CPE requirements, and how and when should tax practitioners be required to provide evidence about their CPE?

For example, should the TPB continue to be pragmatic and apply a risk-based compliance approach, or require practitioners to provide detail/evidence annually or upon renewal?

The NTAA submit that the evidence/level of detail required will ultimately depend upon the type of CPE activity.

### ***Structured CPE***

For CPE activities of a structured nature, or for which payment is made, such as those referred to in paragraph 36(a) to (d) of the EP (e.g., seminars and conferences), example 11 of the EP indicates it is currently appropriate for RTAs to keep their enrolment confirmation and brochure. The NTAA believes that this remains appropriate going forward.

Our view is also that attendance by RTAs at structured training offerings by organisations such as the NTAA and other TPB recognised professional associations, should automatically (and without further enquiry) be accepted as CPE relevant to the tax agents services provided by the RTA, subject to normal TPB enquiry from time to time.

### ***Unstructured CPE***

For those CPE activities of an unstructured nature, or for which no payment is made, third party source documentation will often not be available. Consistent with the requirement at paragraph 16 of the EP, i.e., that the CPE activity be relevant to the tax agent services, the NTAA believes it is appropriate for the TPB to be flexible and practical in this regard whilst fully acknowledging it is incumbent on the RTA to be able to demonstrate this requirement is met.

In some cases, the RTA may be able to keep records such as invoices, emails or print-outs that will adequately detail the nature of the CPE activity undertaken. In other cases, the RTA may only be in a position to record the details of the CPE activity undertaken. For example, in the case of technical reading, the name and author of the technical article as well as a brief summary would suffice. In the case of on-line material such as a video or webinar, the presenter, the topic and relevant website it was broadcast on may be accepted. In the absence of information to the contrary, the above should be accepted as sufficient evidence of the CPE activity being undertaken.

It is appropriate for RTAs to provide a record (or log) of their CPE activities as part of the renewal process. At that time, the RTA should have the source documentation (where appropriate) upon which the entries in the log are based. At a practical level, there would be no benefit in having RTAs submit their source documentation at renewal given there are over 42,000 RTAs and it would not be possible for all for them to be reviewed.

As per paragraph 47 of the EP, the TPB expects that from time to time it may request evidence of CPE completed by RTAs within a relevant period. It remains appropriate for the TPB to request RTAs to provide evidence to support the entries in their CPE log in certain situations. For example, if the TPB is examining possible breaches of the Code by an RTA, it may be appropriate to request relevant CPE documentation.

**Q13.** Do you agree with the TPB's proposal in relation to record keeping requirements (see paragraphs 49 to 50 in this discussion paper)?

The NTAA of the view that adopting the higher 7-year FASEA requirement for record keeping is purely an additional compliance cost for RTAs and there is no direct evidence provided as to why this improves CPE.

The FASEA requirement is potentially driven by factors related to the financial planning industry which do not justify their 'cut and pasting' into TASA.

## **Extenuating circumstances**

**Q14.** Do you have any comment regarding the TPB's approach to extenuating circumstances (see paragraph 53 in this discussion paper)?

The NTAA agrees with the TPB's proposed approach to applying the TPB's CPE requirements to RTAs in extenuating circumstances.

The current policy adequately recognises that circumstances may arise which prevent an RTA from complying with their CPE obligation and the non-prescriptive nature of the policy is appropriate.

Yours faithfully,



Geoff Boxer  
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