

21 May 2013

Tax Practitioners Board
PO Box 126
HURSTVILLE NSW 1481

Email: tpbsubmissions@tpb.gov.au

Dear Sir/Madam,

Re: Exposure Draft: Proposed TPB Guideline TPB(PG) D04/2013

The Australian Institute of Superannuation Trustees (AIST) is an independent, not-for-profit professional body whose mission is to protect the interests of Australia's \$500 billion not-for-profit superannuation sector. AIST's members are the trustee directors and staff of industry, corporate and public-sector superannuation funds, who manage the superannuation accounts of two-thirds of the Australian workforce.

AIST offers this submission in response to the draft guidelines. AIST has participated in the consultation process with regards to the licensing of advisers under the *Tax Agent Services Act 2009* (TASA) and offers our feedback in the context of those responses. While our organisation supports this measure, we have noted that some administrative issues need to be addressed before this measure can be successful.

Comments on the draft guideline

AIST welcomes the guidelines around what may be considered an appropriate course in taxation law that is approved by the Board for registered tax (financial product) advisers. We have provided more comment on this subject in the key feedback issues section below.

We note that this exposure draft relates solely to the course in taxation law as explained in paragraph 9. We note that with respect to practitioners' qualifications, *TPB(I) 14/2012 Tertiary qualifications in a discipline other than accountancy for tax agents* ("the TPB(I)") considers (at paragraph 4) that in addition to a course in taxation law, the Board also would prefer that practitioners undertake courses in basic accountancy principles and commercial law. This assumes that the practitioner has not done a degree in accounting which would normally include such courses.

Whilst we understand that this is subject to what the Board considers relevant to the application, as stated in the TPB(I) at paragraph 4(ii), we question where education in this area could end. We understand that the need for a course in commercial law comes about solely due to the fact

that a tax agent service may include advice on structures, however might this not also extend to courses in trust law, or possibly also insolvency law?

The membership of AIST are generally representatives of superannuation trustees and usually provide a small set of advice services that would not normally include structures beyond the superannuation fund that the representative works for. What this means, is that it is highly unlikely that a superannuation fund representative will provide advice on this area. It is also worth mentioning that superannuation funds are also restricted by the type of AFS licence that they have, and can only operate within those parameters.

Our submissions to Treasury to date have considered that if the requirements for financial services professionals are too similar to those needed for registration as an ordinary registered tax agent, we will recommend to our members that they consider this in place of the newer registration type. We are unwilling to support a lesser registration in exchange for only slightly reduced eligibility criteria combined with higher compliance requirements.

We present our feedback to the key issues below.

Key feedback issues

1. AIST supports the requirement to undertake a course of study in Australian taxation law. We don't agree that the education requirements for a registered tax (financial product) adviser would necessarily be as thorough as an ordinary licensed tax agent's, however.
2. AIST supports the requirements as set out in paragraph 10, however we believe that separately listing item (f) overstates the depth of knowledge required of this area. We believe that knowledge of tax administration could form a small subsection to item (a). We also are unsure why ethical and professional responsibilities of a tax (financial product) adviser might be any different to those of ordinary registered tax agents.
3. AIST believes that this level of taxation law education is appropriate.
4. AIST supports this requirement. We recommend that the Board commence discussions with higher education providers, if they have not done so yet, so that such a course can have an appropriate amount of lead time to develop.
5. We support the minimum education level requirement for this course being a diploma level course that meets the Australian Qualifications Framework (AQF) level 5 criteria. AIST is a Registered Training Organisation (RTO) which provides diploma level qualifications and would be pleased to offer such a course.
6. AIST has no objections to this kind of assessment, provided that it is appropriate to the content of the course.

Our position

AIST's members are the directors and staff of not-for-profit superannuation funds. The requirements for registered tax (financial product) advisers should be sufficient for the type of tax advice that will be provided by these professionals.

We support the efforts of the TPB in developing better education standards in taxation law for financial services professionals who provide a service which falls under the TASA. Further, we encourage financial services professionals to seek out education providers in anticipation of the new standards.

We wish to emphasise, however, that under the present drafting of these requirements, superannuation funds may see little value in the new registration type beyond the initial notification and transition periods, after eligibility criteria and compliance requirements are considered. The value in the new registration type needs to be better demonstrated and in our opinion, it is not there yet.

If you have any further questions regarding this submission, please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3835 or at rwebb@aist.asn.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom Garcia', is written over a light blue horizontal line.

Tom Garcia
Chief Executive Officer