

**Submission
to the
Senate Economics Committee
Inquiry into the
Tax Agents Services Bill 2008**



H&R BLOCK®
tax accountants

Contact Details

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Background

H&R Block is the largest lodger of tax returns in Australia. Lodging some 600,000 returns through a network of 370 Company Owned and Franchise offices. We predominantly handle individual and small business tax returns.

We have been involved in the review of Tax Agents Standards since its inception in 1992, and we attach copies of our submission to Treasury, from the last 2 years of consultation.

We support the intent of the legislation particularly:

1. The independence of the Board
2. The code of conduct for tax agents

Concerns with the New Legislation

We have some concerns with the legislation that may impact on our ability to continue to carry on our business, and we do not feel they are adequately addressed by the Bill or may lead to issues in the drafting of the regulations or the Tax Agents Board's guidelines.

1. Supervision and Control

As you can see from our prior submissions, this is a real area of concern for us.

We believe that the current bill may severely impact on our operation if the board sets actual Tax Agent numbers that are required to demonstrate supervision and control.

Surely the requirement should match the type of tax agent business in question and the procedures in place.

A practice that handles Corporate, superannuation and Trust returns would require a different level of skill, supervision and control to our business that predominantly handles individual returns, Sole traders and small partnerships.

Our supervision and control is managed by overseeing tax agents and the interview procedures and check lists we have in place, with a final review of the tax return by a tax agent they authorises the lodgement to the ATO.

The Bill we believe should state the result of the Supervision and control and Tax Agents be required to demonstrate their Q&A procedures, rather than stipulate the means of Supervision and control.

2. Trust Moneys

We have a concern that the current bill may requires us to establish trust accounts in each state we trade in, and manage the trust accounts in accordance with the state laws. This can cause compliance problems and also extra unnecessary costs.

We believe the Bill or the regulations should provide national standards/ procedures to which we need to comply to manage the trust moneys for our clients.



H&R BLOCK®
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June 24th 2008

General Manager
Tax System Review Submission
The Treasury
Langton Crescent
PARKES ACT 2600

By Email Taxagentservices@treasury.gov.au

Re Tax Agent services Bill 2008- Exposure Draft legislation

Dear Sir,

We thank you for the opportunity to make a submission to you on this proposed legislation.

As you are aware we have been involved in the whole consultation process since 1992, and whilst the current proposals go some way towards the agreed positions, there are a few issues that have arisen, in this draft, particularly in the details of the explanatory memorandum that will have severe consequences to our business and the way it operates, that we believe are unintended and not acceptable in their current format..

We applaud the separation of the Tax Agents board and the Tax Office

We address them in the attached pages

If I can provide further information please do not hesitate to contact me.

Yours Sincerely
H&R BLOCK LIMITED

Frank Brass
Regional Director

1. Division 20 Section 20-5 Registration Eligibility

Clause (3) (d)

This section has the requirement that a Company has “a sufficient number of individuals , being registered tax agents to provide tax agents services to a competent standard and to carry out supervisory arrangements”

The EM goes further than the legislation and states that:

Para 2.49

This requirement ensures that a company or a partnership has sufficient organisational qualifications and experience to provide tax agent services or BAS services. ***The registered individuals working for a company or partnership need to be placed in supervisory or managerial positions in the organisation to oversee the services provided by the company or partnership***

Para 2.50

A partnership or company is therefore required to have an adequate number of staff (depending on the size and activities of the business) who can provide a tax agent service or BAS service competently. There is no set formula for determining the ratio of registered staff to quantity of work (eg, number of returns), but the Board may provide further guidance on adequate staffing and supervision from time to time.

Our concerns with these clauses are detailed below:

1. The EM requirement will mean we cannot continue to operate as we currently do, with our management team as the majority are not Registered tax Agents.

Our Management team has several Registered tax agents amongst them but majority are not Tax Agents. We employ tax agents who are involved in our staff training, answer tax queries from staff as required and to ensure the correctness of the tax returns and to satisfy themselves that the return is correct prior to approving it for lodgement. Their role is clearly supervisory and they have final say on whether the tax return is correct and then they allow it to be lodged with the ATO. Strong interview systems, modern computer communication systems ensure that all staff are able to submit any tax issue to the supervising Agent for almost instant review ensures a high quality tax return is prepared for the client.

2. The current employment market in the tax industry and lack of new entrants into the tax industry and the aging profile of registered tax agents would make the fulfilment of this requirement very difficult. This would be a detriment to the Australian tax paying public.



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13th June 2008

General Manager
Tax System Review Submission
The Treasury
Langton Crescent
PARKES ACT 2600

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Regional Director

**1. Division 602 30(2) (3) Sufficient Resource requirements
Clause 2.75 (For Companies and Partnerships) Page 20**

The discussion on comparison between old law and new law on page 6 of the Chapter Registration of tax agents details the requirements that Companies

“Must now only be able to demonstrate that they have sufficient resources (including financial, technological and appropriately qualified human resources) to provide a tax agent service or BAS service, as the case requires, to a competent standard, and to carry out supervisory arrangements”.

Under paragraph 2.75 of the Draft Explanatory Memorandum, the paragraph talks to the summary detailed above, but the example goes further (example 2.15) to state that

To satisfy the appropriate qualified human resources requirement, the Company has registered tax agents in key management positions responsible for the supervising its employees ensuring the returns prepared are of a required standard.

Our concern is that the regulations will be written taking into account the intent of the Explanatory explanations, will mean we cannot continue to operate with our current management team around the country.

Our nominee tax agents have prime responsibility to ensure correct returns are lodged, but they are not in key management positions in the organisation. To require them to be would change the whole way our business operates.

2. Clause 3.54 of the obligation of Tax Practitioners Holding money or property for clients.

604-10 (14) states if you receive money or other property on or behalf of your client and you hold that money or property on trust you must account for the money or property.

A Tax Practitioner may refer to RPA and the relevant state laws for further guidance
The example at 3.54 states that that you are required to hold money in a trust account

Our concern is that the regulations will be written taking into account the intent of the Draft Explanatory Memorandum, will mean we will need to operate separate trust accounts in each State to comply with the different legal acts in each State in Australia.

3. Division 604-10 (10) Take reasonable steps to ensure

The Code of conduct details the general requirements of tax agents in gathering client information. It requires tax agents to take reasonable care to ensure the true state of their client’s tax affairs. But the detail in the Explanatory Memorandum again goes further in example 3.7 and makes it unworkable.

Our concern is that the regulations will be written taking into account the intent of the Explanatory explanations, will mean we have to see receipts for all our clients to comply with the act.

If a client provides us a list of expenses and we question that

a. He has the receipts

b. The purchases relate to the activity we are claiming

- Why would we need to see the receipts?

- Why is it not acceptable to accept the client information after questioning and confirming the information with the client and satisfying ourselves on the correctness of the claims

4. We are concerned that the new National Board is not made more independent from the Tax Office.

We believe the board should be separate from the Tax Office, and have independent sources of resources and funding.

We have concern with the activities of the tax office's tax agent integrity unit and its investigations that are more correctly the domain of the tax agents board(s).

In conclusion, I would also like to add that the additional onerous tasks being placed upon individual Tax Agents, by this new legislation, will make it much more difficult to increase the ranks of Tax agents, which is of a large concern to us as a large player in the industry