



Australian Government
The Treasury

9 February 2009
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Mr John Hawkins
Secretary
Senate Standing Committee on Economics

Dear Mr Hawkins

**MATTERS RAISED IN SUBMISSIONS TO THE SENATE ECONOMICS COMMITTEE'S
INQUIRY INTO THE TAX AGENT SERVICES BILL 2008**

I refer to the matters raised in the supplementary submission to the Senate Economics Committee's inquiry into the Tax Agent Services Bill 2008 (the Bill) made by Mr Peter Davis and Mr Peter Polgar, dated 8 February 2009. The submission suggests that Treasury does not appear to fully understand certain issues that were raised in earlier submissions made to the Committee and that were the subject of discussion during the inquiry hearing on 6 February 2009. To clarify aspects of my evidence to the Committee, I provide further detail for your information below.

Death of an agent

Subsection 40-5(2) of the Bill provides for the *circumstances* in which the Tax Practitioners Board (Board) must terminate an individual's registration, and paragraph (b) states that one such circumstance is death. Section 40-20 provides for notification of a decision to terminate registration and when termination takes effect. This section allows the Board 30 days from the time of its decision to provide notice, and provides that the notice specify a date of effect that is *at least* 28 days after the date of the notice (with no upper time limit). These provisions allow the Board complete flexibility to allow as much time as is necessary to wind up, sell or otherwise deal with the practice of a deceased agent.

Requirement to maintain professional indemnity insurance

The Bill requires agents to maintain professional indemnity (PI) insurance to the extent that they are required to do so by the Board. It is expected that all agents will have some form of PI insurance (and this is reflected in the explanatory memorandum). However the Board is not required to mandate PI insurance requirements in every case because many agents may already be obliged to hold PI insurance under some other arrangement, for example by virtue of membership of a recognised professional association. In such cases, it would be an unnecessary burden on the Board for this Bill to require the Board to set PI insurance requirements on an individual basis for each and every agent.

Registration of BAS agents

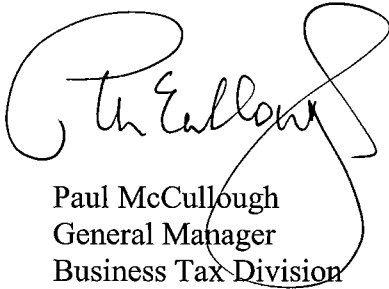
Entities providing BAS services for a fee or other reward will be required to register as BAS agents under the Bill. This means that those bookkeepers who, for example, interpret or apply the law

relating to a BAS provision in providing advice or satisfying obligations under the law, where there may be reliance on such services and the services are provided for a fee, will be required to register. However those bookkeepers who do not provide BAS services for a fee will not be required to register under the Bill.

In this way, the requirement to register stems from the type of services being provided and the circumstances in which they are provided, rather than the class of people providing them. We submit that this approach is the most logical and pragmatic way to ensure optimal regulation (and therefore consumer protection) at the minimum cost.

I trust this further information is of assistance to the Committee.

Yours sincerely



Paul McCullough
General Manager
Business Tax Division