

Quick Read – The Proposed BAS Agent Legislation

The proposed BAS Agent Legislation calls for the introduction of a national Tax Practitioners Board who, among other things, will oversee and regulate the supply of BAS Services to the public. Only bookkeepers who have applied to the Board for registration as a BAS Agent will be permitted to render BAS services to their clients. BAS services have been more stringently defined and capture the majority of services provided by most bookkeepers. The legislation imposes a range of civil penalties ranging from \$5,500 to \$137,500 (per offence) for illegally providing, representing that you provide, or advertising that you provide, BAS services.

In order to become registered as a BAS Agent, a bookkeeper must satisfy the Board that they meet certain criteria. Firstly, the applicant must be a “fit and proper person”. Secondly, the applicant must satisfy an educational criterion, which at a minimum requires the attainment of a Certificate IV Financial services (Accounting) or Certificate IV Financial Services (Bookkeeping). Thirdly, the applicant must demonstrate some 1400 hours of “relevant experience” in the past three years.

An alternative means by which one can be a BAS Agent is to be a member of an accounting RPA (currently ICAA, CPA, TIA, NIA, ATMA, CIMA and ACCA) and demonstrate some 1400 hours of “relevant experience” in the past three years. The new regime also contemplates the emergence of BAS Agent Associations who may assist the Board by providing Board-recognised courses for ongoing professional education and disciplinary purposes. However, unlike an RPA membership, being a member of a BAS Agent Association will not confer BAS Agent status on a person.

BAS Agents under the new system will be subject to a Code of Professional Conduct which imposes a range of obligations, one of which is the compulsion to hold Professional Indemnity Insurance to a Board-specified level. BAS Agents will also be subject to a range of administrative sanctions and civil penalties. Clients of BAS Agents will benefit from so-called safe harbour provisions which provide relief from penalties in the case of error or late lodgement by the BAS Agent.

Transitional relief, which relies on a number of key conditions being met, provides an opportunity for bookkeepers who are already providing exempt BAS services under the existing s.251L to continue to do so for up to two years after the transition date. It also provides an avenue to attain a BAS Agent registration by meeting fewer requirements than would ordinarily be the case.

It is still unclear when the Bill will become law but it seems certain that it will. When it does, it is likely to polarise the bookkeeping industry and will create two distinct strata of bookkeepers. One stratum will comprise those who can legally provide BAS services to the public; the other will comprise those who cannot. This is expected to lead to differences across the bookkeeping industry in terms of what services can be provided and at what cost. While it will likely result in some industry flight or, at the very least, the reshaping of some bookkeeper’s business models, it may also attract new entrants to new opportunities in what will be a forever changed industry.