

Submission No: 2013/09

8 March 2013

CREATING A REGULATORY FRAMEWORK FOR TAX ADVICE (FINANCIAL PRODUCT) SERVICES

This draft legislation is to amend the *Tax Agent Services Act 2009* (TASA) to bring entities that give tax advice in the course of advising on one or more financial products within the regulatory regime administered by the Tax Practitioners Board.

ASFA supported this approach in its response to the 2010 discussion paper, *Regulation of taxation services provided by financial planners*. The regulatory approach is consistent with the ASFA position that that accountants who provide financial advice should be subject to the AFSL regime.

ASFA considers that it will be effective in implementing the Government's policy. We have not identified any other parts of the TASA requiring amendment.

Comments on the explanatory memorandum

ASFA recommended that the explanatory material be expanded to provide those new to the TASA regime an improved understanding of the registration requirements and processes.

ASFA recommended that clarification be provided in the explanatory memorandum as to the applicability of registration requirements to situations in the superannuation industry where access to financial advice is a benefit of fund membership and is not separately charged for. The use of an example would assist.

ASFA recommended that clarification be provided in the explanatory memorandum as to the applicability of the penalty provisions regarding advertising to superannuation funds that do not charge their members a fee for financial advice but advise their members of the availability of such a service. The use of an example would assist.

Comments on the proposed amendments to the Tax Agent Services Regulations 2009

ASFA recommended that:

- The regulations be worded so as to provide flexibility in how the Australian tax law educational component can be delivered.
- As a matter of urgency, the Tax Practitioners Board identifies and advises of the subject matter that will make up the Australian tax law educational component for tax (financial product) advisers.
- The Government and Tax Practitioners Board representatives consult with relevant industry associations and current providers of financial advice educational services on appropriate/acceptable course structures and content.
- The CPE requirement be a lesser number of hours than that currently set for tax agents and BAS agents.