



## THE TAX INSTITUTE

19 March 2020

Mr Michael O'Neill  
Secretary/CEO  
Tax Practitioners Board  
GPO Box 1620  
SYDNEY NSW 2001

By email: [tpbsubmissions@tpb.gov.au](mailto:tpbsubmissions@tpb.gov.au)

Dear Mr O'Neill,

**TPB Discussion Paper - TPB(DP) D1/2020 Tax Practitioners Board: Continuing professional education requirements for tax practitioners under the Tax Agent Services Act 2009**

The Tax Institute welcomes the opportunity to make a submission to Tax Practitioners Board (**TPB**) in relation to the *TPB Discussion Paper - TPB(DP) D1/2020 Tax Practitioners Board Continuing professional education requirements for tax practitioners under the Tax Agent Services Act 2009 (Discussion Paper)*.

The Tax Institute is a leading provider of tax education and Continuing Professional Development. We make our submission on behalf of members of The Tax Institute.

### Summary

Our submission below addresses our main concerns in relation to the Discussion Paper, namely that:

- No supporting evidence has been provided to suggest that increasing the number of CPE hours required to be met by registered practitioners will necessarily result in increased professionalism of registered practitioners or the provision of improved tax services for taxpayers; and
- If the TPB determines following this consultation that the number of CPE hours should be increased to 40, it is important that a flexible approach be maintained for registered practitioners in attaining CPE. A number of alternatives to implement a flexible approach should be considered and consulted on.

### Discussion

The Tax Institute supports the requirement for ongoing learning in the form of CPE for all tax practitioners, including practitioners registered with the TPB. This ideology underpins our response to the Discussion Paper.

Accordingly, we set out below the core issues that we have identified in relation to the Discussion Paper.

## **1. Increasing CPE hours will not increase competency of practitioners**

The reasons the TPB is reviewing its current Continuing Professional Education (**CPE**) requirements are set out in paragraph 2 of the Discussion Paper. The purported reasons for proposing the change to 40 hours a year from 90 hours across three years, which averages out to 30 hours a year, are contained in paragraph 23. It is unclear what is meant by 'to facilitate improved guidance and professionalism' and therefore this is left open to interpretation.

We are given no basis to be satisfied that there is necessarily a correlation between an increase in CPE hours as proposed, and increased professionalism of registered practitioners, and consequently an increase in the quality of tax services provided.

In particular:

- There is no supporting evidence presented in the Discussion Paper that shows a positive correlation between an increase in the CPE hours required from 30 (on average) to 40 per year and an increase in 'guidance and professionalism';
- There is no supporting evidence presented in the Discussion Paper that shows that the current failings of certain registered practitioners are linked to a failure to undertake sufficient CPE and the effect of that failure on their 'guidance and professionalism'; and
- Even if it is accepted for the sake of argument that the proposed increase will improve such outcomes (which is not admitted), the Discussion Paper does not analyse whether the marginal benefit to the community of improving those outcomes justifies the marginal increase in cost to the registered practitioner community of requiring the additional CPE hours to be completed.

Some members report that CPE is undertaken 'just to comply' with the number of hours of CPE required rather than to enhance their knowledge and cheaper or lower quality CPE options are sought out for this reason. Indeed, increasing CPE requirements on registered practitioners may just result in placing an unnecessary burden (including time and cost burden for having to comply) on otherwise competent practitioners.

## **2. Alternative for further consultation to maintain flexibility if increase goes ahead**

Members have expressed considerable concern with the proposal to move from a system of requiring 90 hours of CPE over 3 years (with a minimum of 10 hours a year) to a system of 40 hours per year. A question arises as to whether 40 hours of CPE per year will be achievable for numerous registered agents who may find themselves in a variety of circumstances including working reduced hours or are on extended periods of leave in one particular year (for example parental leave, extended personal leave, career break, or professional requirements such as extended periods of training or work on a major project). It also does not recognise the changing profile of the modern tax profession workforce which includes increasing numbers of workers on flexible or part-time work arrangements who may need to juggle family and other commitments to make the time to meet their CPE requirements. Some members feel that the move towards a '40 hours per year system' will further discriminate against part-time workers.

Should the TPB determine as a result of this consultation that the required number of CPE hours should be increased to 40 per year, a number of alternatives for implementing this change should be consulted on prior

to introducing this change. These alternatives should also take into account the amount of unstructured CPE most registered agents likely undertake to keep up with the continuous changes to tax law and administration. Certainly, Institute members report to us the many hours of reading newsletters and published materials to keep up with the changes. Adding an increased unstructured component to the requirement will reflect this and will allow registered agents to acquire knowledge in areas important to their own practice. This flexibility is essential to allow practitioners to focus on continued learning in areas most important to them and their own service delivery, and to undertake it in a manner that suits them best.

The Tax Institute suggests a possible alternative to the TPB's proposal - that CPE be assessed as 120 hours over 3 years (consistent with other professional associations and include a minimum requirement of 10 hours a year) rather than as '40 hours per year'. This allows the flexibility available in the current CPE system of 90 hours over 3 years to be maintained and also delivers on the increase in CPE requirements if that is the desired outcome of the TPB. Please see further our comments at Question Number 8 in the table in the Appendix.

We have addressed the consultation questions in the table in the Appendix.

If you would like to discuss any of the above, please contact either myself or Tax Counsel, Stephanie Caredes, on 02 8223 0059.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Peter Godber', with a long horizontal flourish extending to the right.

**Peter Godber**  
President

## APPENDIX

### Consultation Questions

Number	Consultation Question	Tax Institute Response
1.	Do you have any comment regarding continuation of the TPB's current approach to the purpose of CPE (see paragraphs 16 and 18 in this discussion paper)? If you do not agree, please provide reasons.	No comment
2.	Is the proposed minimum CPE hours requirement appropriate (40 hours per annum for all tax practitioners), or should it be changed to something else (and if so, how much and why)?	Please see comments above
3.	Do you have any comment regarding continuation of the TPB's current approach to maintaining the lower CPE requirement for certain conditional tax practitioners (see paragraphs 19 and 25 in this discussion paper)?	The Tax Institute agrees that the lower CPE requirements for certain conditional tax practitioners should continue.
4.	Should the TPB incorporate any specific comment or requirement in relation to subject areas/categories – in particular, should the TPB: <ul style="list-style-type: none"> <li>i. recommend areas/types to be completed by tax practitioners (without being prescriptive as to minimum hours in specific subject areas), or</li> <li>ii. mandate a minimum number of hours in CPE subject areas/categories similar to FASEA's approach,<sup>2</sup> or</li> <li>iii. make no further changes / comment (do neither of the above)?</li> </ul>	The TPB should require that all CPE hours be related to the tax services provided by the registered agent.
5.	Do you have any suggestions about how the TPB should implement any changes to its CPE requirements in relation to the minimum number of hours and/or subject areas required, noting that the TPB would allow for sufficient lead-in time for any changes? For example, should the TPB employ a calendar-year model starting from 1 January, or commence application of any changes from a practitioner's next registration renewal?	The Tax Institute agrees that the CPE requirements should be aligned with a set time period rather than the registration date, such as a calendar year or financial year. We suggest the time period follow that most commonly found among other organisations to which tax practitioners have CPE obligations. For example, The Tax Institute reviews its members CPD requirements based on a financial year in line with their membership renewal.
6.	Should the TPB's requirements be reduced for tax practitioners who work part-time? If so, on what basis and to what extent should the TPB's requirements be reduced?	See The Tax Institutes suggestion above.
7.	Do you have any feedback in relation to the TPB's proposed view regarding CPE activities (see paragraphs 26 to 28, and paragraphs 31 to 33 in this discussion paper)?	In relation to tax (financial) adviser training, we consider that certain items of training are too wide to deliver or have any

		<p>real connection to benefiting consumers, such as:</p> <ul style="list-style-type: none"> <li>• practice management software training,</li> <li>• information sessions on new investment products.</li> </ul>
8.	Do you agree with the TPB maintaining the 25% reading allowance (see paragraph 21 in this discussion paper)?	<p>We have a complex world that registered agents are operating in, who read extensive amounts of material to keep up to date with the constant changes. A requirement to undertake additional structured CPD would require additional costs to be incurred by registered agents.</p> <p>Should the TPB determine as a result of this consultation that CPE hours should be increased, there should be some flexibility in how registered agents satisfy the additional CPE requirements. In this regard, the number of hours allotted to the 'reading allowance' should be increased to at least 15 hours of the 40 hours a year as members have noted that many hours are spent reading newsletters and published materials to maintain their currency. The CPE requirements should reflect this.</p>
9.	Do you have any suggestions on how tax practitioners should be required to demonstrate that the CPE completed reflects their service offerings (for example, what evidence should be required, and how frequently)? Should the TPB require CPE logs to contain sufficient detail to explain how a tax practitioner's professional or technical reading is relevant to the tax services provided?	The Tax Institute considers that a log be maintained of all CPE undertaken including a short description of the content of the CPE with sufficient detail to explain how a tax practitioner's professional or technical reading is relevant to the tax services provided.
10.	Do you have any feedback in relation to the TPB's proposed approach to recognising CPD/CPE undertaken to satisfy requirements of other bodies, including TPB Recognised professional associations and FASEA (see paragraphs 34 to 37, and paragraphs 40 to 41 in this discussion paper)?	All CPD/CPE undertaken should be relevant to the <u>tax services</u> provided by the registered agent. Only CPD/CPE undertaken to satisfy CPD/CPE requirements of FASEA related to the tax services provided by the tax (financial) adviser should count towards satisfying the CPE

		requirements of the TPB.
11.	Do you have any comment regarding continuation of the TPB's current approach to approval of CPE activities/providers (see paragraph 42 in this discussion paper)?	No comment
12.	What evidence/level of detail should the TPB require from tax practitioners to assure compliance with the TPB's CPE requirements, and how and when should tax practitioners be required to provide evidence about their CPE? For example, should the TPB continue to be pragmatic and apply a risk-based compliance approach, or require practitioners to provide detail/evidence annually or upon renewal?	Refer to comments above regarding keeping a log.
13.	Do you agree with the TPB's proposal in relation to record keeping requirements (see paragraphs 49 to 50 in this discussion paper)?	Yes
14.	Do you have any comment regarding the TPB's approach to extenuating circumstances (see paragraph 53 in this discussion paper)?	The current position of the TPB in relation to extenuating circumstances should be maintained as a minimum. Please refer to comments about in relation to the changing nature of the workforce and need to maintain flexibility in the CPE system for a variety of circumstances.