

Notes on the Small Business Tax Interview Checklist

The interview checklist are a series of questions to assist client's and tax practitioners complete tax returns efficiently and consistently and help identify relevant tax issues for special consideration.

The Code of Professional Conduct was introduced as part of the *Tax Agents Services Act 2009* and regulates a tax practitioner's personal and professional conduct. The Tax Agent Services Act came into force on 1st March 2010. Tax practitioners who do not comply with this legislated Code of Professional Conduct face certain sanctions which can include the termination of registration for serious breaches if they are investigated and found guilty by Tax Practitioner Board. Members of the National Institute of Accountants (NIA) are also subject to additional professional and ethical requirements. Complaints about the tax practitioner can be made directly to the Tax Practitioners Board (www.tpb.gov.au) and to the NIA if the are a member.

The requirement to use an engagement document is emphasised in the Explanatory Memorandum to the Bill that introduced that Tax Agents Services Act 2009. APES 305 Terms of Engagement also requires the use of engagement documentation by members of the National Institute of Accountants. The use of an engagement document allows an agent to advise their clients of their rights and obligations under the taxation laws, which is one of the requirements of the Code of Professional Conduct. The NIA therefore, recommends that an engagement letter is utilised for each assignment undertaken for a client. What follows are a few pertinent points that tax practitioners and clients need to be mindful of as part of new Tax Agent Services Regime.

Client's disclosure and record keeping obligations

Clients are required by law to keep full and accurate records relating to their tax affairs. It is the client's obligation to provide the tax practitioner with all information that one would reasonably expect will be necessary to allow the practitioner to perform work contemplated under the engagement within a timely manner or as requested. This includes providing accurate and complete responses to questions asked of client by the practitioner. Inaccurate, incomplete or late information could have a material effect on tax practitioner services and/or conclusions.

Tax practitioners need not verify the underlying accuracy or completeness of information the client provides if it appears reasonable. However, if the tax practitioner believes information is missing, incorrect or misleading, they will need to seek further assurance from the client.

The *Taxation Administration Act 1953* now contains specific provisions that may provide the client with "safe harbours" from administrative penalties for incorrect or late lodgement of returns. These safe harbour provisions will only be available to the client if, amongst other things, the client provides "all relevant taxation information" in a timely manner (the safe harbour provisions apply from 1 March 2010). Accordingly, it is to the client's advantage that all relevant information is disclosed to the Tax agent as any failure by the client to provide this information may affect client's ability to rely on the "safe harbour" provisions and will be taken into account in determining the extent to which tax practitioners have discharged their obligations to clients. It is the client's responsibility to show that they brought all matters to the tax agent's attention if they want to take advantage of the safe harbours created under new regime.

Client's rights and obligations under the taxation laws

Clients have certain rights under the taxation laws, including the right to seek a private ruling from the Australian Taxation Office (ATO) or to appeal or object against a decision made by the Commissioner. Tax practitioners, will provide further information to clients as relevant concerning their rights under the Australian taxation laws during the conduct of the engagement.

Clients have certain obligations under the Australian taxation laws, such as the obligation to keep proper records and the obligation to lodge returns by the due date. Tax practitioners must keep clients informed of any specific rights and obligations that may arise under the Australian taxation laws.

Tax Practitioners obligation to comply with the law

Tax practitioners have a duty to act in clients best interests. However, the duty to act in clients best interests is subject to an overriding obligation to comply with the law even if that may require the tax practitioner to act in a manner that may be contrary to the client's directions. For example, the tax practitioner could not lodge an income tax return that they believe to be false in a material respect.

Unless otherwise stated, this opinion is based on the Australian tax law in force and the practice of the Australian Taxation Office (the ATO) applicable as at the date of this letter.

Disclaimer

The attached document is intended as a guide only and does not purport to be comprehensive or to render tax or other professional advice. To the extent permitted by law, the National Institute of Accountants expressly disclaim all liability for errors or omissions of any kind whatsoever (whether negligent or otherwise) or for any loss, damage or other consequence which may arise from any person relying upon this document.

Small Business Tax Interview Checklist

2010 Income Tax Return

- Please answer the following and supply supporting information where applicable
- This will guide the completion of the business and professional items schedule,
- 2009/2010 refers to the period from 1 July 2009 to 30 June 2010
- Unless otherwise stated, this checklist refers to events occurring in 2009/2010
- All figures need to be net of GST (unless input tax credit restrictions apply)
- This checklist is designed to complement the individual checklist and the two documents should be read together
- This checklist is designed for business run by a sole trader. Other business structures may find this checklist helpful

CLIENT DETAILS

- Tax File Number of Business (if applicable): _____
ABN (if no ABN, give reasons why not): _____
- Name: Mr/Mrs/Ms/Miss _____
- Business Address: _____
Postal Address: _____
Has your postal address changed since lodging a tax return? YES NO
- Telephone: (W) _____ (H) _____ (M) _____
Fax: _____ Email: _____
- Name of Business: _____
Trading Name: _____
- Does your business use the internet to buy or sell any goods or services? YES NO
- Type of Business Structure/s (e.g. company, trust, partnership, sole trader)
 - if business is run through a company, trust or partnership, complete the relevant form and consider alienation of income rules if income is earned from personal exertion services
 - if a service arrangement is used, consider TR 2006/2 and the Guide

INCOME (PLEASE PROVIDE INFORMATION WHERE APPLICABLE)

- Did you earn Personal Services Income as a sole trader? YES NO
**if yes, seek information on business arrangement*
- What is your main business activity? _____
- How many different types of business activities do you undertake? _____
- Did you cease or commence business in 2009/2010? YES NO
** if yes, consider the Blackhole expenditure changes*
- P5 to P7. See Client Details above
- Please provide the following amounts (with supporting documentation):
Business Income (use the indicated source documents to calculate and provide such documents):
 - Business Income where ABN not quoted \$ _____
 - Business Income subject to foreign resident withholding _____
 - Business Income from Voluntary Agreements \$ _____
 - Business Income from labour hire arrangements \$ _____
 - Assessable Govt. Industry payments \$ _____**provide details of any government grants you received, such as export grants.*

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2010 Income Tax Return

- All other income (see and provide the following documents) \$ * Reconciled cash
 - Bank statements indicating the nature of each deposit and interest received
 - Reconciled cash book including drawings taken from the business before banking
 - Debtors listing for sales on credit
 - Rental income received (prepare a rental property schedule)
 - Shares bought, sold and held throughout the 2009/2010 period, including:
 - Original purchase price, date of purchase, date of sale, price on sale and costs associated with sale and purchase such as brokerage and stamp duty. Also provide any dividend statements received (prepare a share trading account).
 - Details of any disposal of any business property or plant (in the below format).

Asset Description	Date of Purchase	Date of Sale	Purchase Price	Sale Price or Nil if Scrapped

- Details on any other personal use or business assets, acquired since 19/09/1985 that have been sold in 2009/2010.
- Details of any of the active assets of the business (including shares in a company or trust carrying on an active business that your or your spouse control)?
- Have you any carried forward capital losses?
- Other Income – provide documents such as bank statements, receipts, invoices or cash book records of any other unusual income

BUSINESS EXPENSES (where applicable, use the source documents to calculate and provide those documents):

- Opening Stock as at 1 July 2009 \$
- Add Purchase of stock \$
 - *Provide receipts, invoices and creditors listing for such purchases of stock
- Less Closing Stock as at 30 June 2010 \$
- Sub-Total \$
- Foreign resident withholding expenses
- Contractor, sub-contractor expense \$
- Superannuation expenses \$
 - *Provide information relating to contributions on employees' behalf
 - *Provide details of name of fund, policy number, contributions paid for the operators of the business and if the fund is complying
- Bad debts \$
- Lease expenses \$
 - *Provide a separate detailed list of all leased plant and motor vehicles (including for private use) and the leasing expenses for each item
- Rent expenses \$
 - *Provide details of any expenditure incurred, e.g. rates and taxes, insurance, interest repayments, repairs etc and the date of purchase of the rental property (rental property schedule).
- Interest expenses
 - Australian \$
 - Overseas \$
 - *Include details of any tax withheld from interest or investments
- Depreciation \$
 - *Provide a list of all business assets showing date of purchase, description and purchase price, and if the asset is under hire purchase or lease (asset register)
 - *Separately identify all assets depreciated for the first time in 2009/2010
 - Detail any purchases that would come under the Small Business and General Business Tax Break
- Motor Vehicle Expenses \$

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2010 Income Tax Return

- *Provide the following information if you are operating a business as a sole trader or partner and used a motor vehicle for business purposes:*
- (i) Log books
 - (ii) Odometer readings as at 1 July 2009 or acquisition date and 30 June 2010 or disposal date
 - (iii) Break up of expenditure for each motor vehicle on Fuel and Oil, Registration, Insurance, Tyres, Repairs and other expenses
 - Repairs and Maintenance \$
 - *Provide details of any repairs and maintenance carried out to any business assets*
 - All Other Expenses \$
 - *Provide statements for all loans owing by the business, including to the operators, showing the balance as at 30 June 2010, when the loan was taken out and the interest paid on those loans for the financial year. Also provide details of any loans forgiven and borrowing expenses incurred during the financial year. Check whether loan agreement needs refreshing.*
 - * Provide employer copies of payment summaries (employee salaries and wages)*
 - * Provide details of prepaid expenses*
 - * Provide a travel diary and other documentation if there are travel expenses*
 - * Provide details of type of insurance policy (including income protection insurance and business insurance), name of insurance company, premium, anniversary date and if the policy has a life insurance component*
 - * Provide a petty cash summary that classifies expense items*
 - * Other expenses - provide documents such as cheque butts, receipts or a reconciled cash book on any unusual expenses that might be deductible*

OTHER ISSUES

- Do you have any environmental protection expenses? YES NO
- Do you have any capital expenditure related to the commencement or cessation of a business? YES NO
- Any capital expenditure directly connected with a business project? YES NO
- Landcare operations and expenses in relation to the decline in value of a water facility? YES NO
- Any deferred non-commercial business losses from prior years? YES NO
- Has your business been affected by Bushfires, floods or other natural disaster? YES NO

OTHER BUSINESS AND PROFESSIONAL ITEMS (PLEASE PROVIDE INFORMATION WHERE APPLICABLE)

- P9.** Did a company receive or transfer out any losses during the income year? Does it have any carry forward tax losses during the income year or any unrealised losses? If so, provide details. *A loss schedule may need to be completed
- Did you conduct a business activity as a partner in a partnership or as a sole trader that resulted in a loss for that or any related business activities? If yes non-commercial loss rules need to be satisfied otherwise loss quarantined *Be aware of the rules relating to the deferral of non-commercial business
- P10.** Small business entity depreciating assets (low cost assets, pooled assets) *See Capital Allowance schedule 2010
- P11. Debtors** - Itemised details of trade debtors including bad debts.
- P12. Creditors** - Itemised details of trade creditors as at 30 June 2010.
- P13. Salary and Wage expenses** - See under All Other Expenses in P8.
- P14. Payments to associated persons and entities** - Provide information relating to any payments to related people or businesses, especially loans to family members or related businesses.
- P15 to P18.** See under Depreciation in P8.
- P 19** Trading Stock election? Y for yes or leave blank. Taxpayers can elect to adopt a different basis of valuing closing stock

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2010 Income Tax Return

OTHER ISSUES (PLEASE PROVIDE INFORMATION WHERE APPLICABLE)

- | | | | |
|-----|---|--------------------------|---|
| 1. | Provide details of non-deductible expenses (including private or domestic expenses, entertainment (other than employee fringe benefits), items of a capital nature and fines and penalties. | <input type="checkbox"/> | |
| 2. | Provide details of any tax withheld from payments where an ABN has not been quoted | <input type="checkbox"/> | |
| 3. | If your business is operating through a company, provide details of all dividends paid. If loans have been granted or loans forgiven provide details. | <input type="checkbox"/> | |
| 4. | Provide details of stock that may have a market selling value or replacement value less than cost. | <input type="checkbox"/> | |
| 5. | Provide the market value of trading stock items that cease to be trading stock without disposal (e.g. stock for own consumption or cessation of business). | <input type="checkbox"/> | |
| 6. | Value of work in progress as at 30 June 2010 and have goods in transit been considered. | <input type="checkbox"/> | |
| 7. | Payments received from associated persons and other entities – provide information relating to any payments from members and directors since 22 February 1999. | <input type="checkbox"/> | |
| 8. | If your business is operating through a family trust, has the trust made a family trust election? | <input type="checkbox"/> | *Family Trust Election |
| 9. | Have you reconciled your BAS for the 2009/2010 year? | <input type="checkbox"/> | |
| 10. | Please provide copies of each BAS or IAS that you have lodged during 2009/2010 where your tax agent has not lodged those activity statements. | <input type="checkbox"/> | |
| 11. | Do you run your businesses through more than one business entity that is directly or indirectly owned 100% by a head company? | <input type="checkbox"/> | *Consider consolidation rules |
| 12. | Provide information so that annual turnover can be calculated for GST and Small Business entity concessions. | <input type="checkbox"/> | |
| 13. | Do you own an investment property? | <input type="checkbox"/> | *Consider land tax issues |
| 14. | Personal Income Tax - Complete <i>Tax Interview Checklist for Individuals</i> . | <input type="checkbox"/> | |
| 15. | Spouse's Income – provide any relevant details on income or pension received by your spouse. | <input type="checkbox"/> | |
| 16. | If you are a subcontractor, did you earn the majority of your income from one head contractor? | <input type="checkbox"/> | * Consider whether a personal services business |
| 17. | Do you employ a separate Bookkeeper? Are they a member of a professional association? Are they covered by Insurance? Are they registered BAS Agent? | <input type="checkbox"/> | |
| 18. | Have you disposed of any assets that have a CGT consequence? | <input type="checkbox"/> | |
| 19. | Do you earn over \$250,000 as an employee and operate a business that generated losses? | <input type="checkbox"/> | *Consider non-commercial loss rules 2010 issues |
| 20. | Does the business qualify as a small business? If so consider: | <input type="checkbox"/> | |
| | a) Deduction for pre-paid expenses where period of service less than 12 mths | | |
| | b) Entrepreneurs tax offset | | |
| | c) Assets costing less than \$1,000 for immediate deduction | | |
| | d) Assets that cost \$1,000 or more, have they been allocated to appropriate small business pools (General pool and long life pool).For assets that are acquired during the year, only half depreciated pool rate | | |
| | e) Can the taxpayer elect not to carry out a stock take of trading stock? | | |