



21st November 2024

Tax Practitioners Board
GPO Box 1620
Sydney NSW 2001

Email: tpbsubmissions@tpb.gov.au

Dear Sir/Madam

SMSF ASSOCIATION SUBMISSION: TPB(I) D59/2024 OBLIGATION TO KEEP PROPER CLIENT RECORDS OF TAX AGENT SERVICES PROVIDED

The SMSF Association welcomes the opportunity to provide this submission in response to exposure draft *TPB Information sheet TPB(I) D59/2024 Obligation to keep proper client records of tax agent services provided* (D59/2024 ED).

The SMSF Association supports the obligation on record-keeping requirements for registered tax practitioners, as we believe that it will promote consistency and certainty of practices across the sector, including what records they need to keep and for how long.

We also believe that proper and accurate recordkeeping is essential to maintaining the integrity of a registered tax practitioner's practice, as it explains and evidences the actions, decisions and advice of that registered tax practitioner in the course of providing tax agent services to their clients, as stated in the guidance.

To help further protect tax practitioners and their clients against the risk of physical or cyber identity theft, we believe the guidance should reference the ability to use Australia's Digital ID System to verify a client's identity. This will not only promote the new system, but may also support limiting the personal information a tax practitioner must sight, and potentially retain, to verify a client's identity if they utilise the system

Our detailed responses to the consultation paper are contained in the Attachment.



If you have any questions about our submission, please do not hesitate to contact Keddie Waller, Policy Manager via email keddiewaller@smsfassociation.com

Yours sincerely,

Tracey Scotchbrook
Head of Policy and Advocacy

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.1 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.



TPB Information sheet TPB(I) D59/2024

Are there additional examples of types of records that should be included at paragraph 23?

The examples of the types of records that should be kept at a minimum are appropriate to demonstrate evidence of compliance with the Code and the record keeping obligations.

However, given the risk of physical or cyber identity theft increases with the level of personal information retained by the tax practitioners, as stated in paragraph 87 of D59/2024, we question the requirement for tax practitioners to retain their client's bank details. We recommend this requirement be removed from the minimum client information that should be retained.

We also believe that paragraph 23 should reference the guidance provided in paragraph 50 for the types of records that would be required to explain the tax agent service provided and enable a complete and accurate record of that service.

Are the minimum details listed at paragraph 50 appropriate? If not, what should or should not be included and why?

We believe the details listed at paragraph 50 are appropriate, however we would recommend amending paragraph 51 to state:

The records that must be kept **could be sourced from a variety of documents, such as a letter of engagement or client communications, noting** and the level of detail required will vary depending on the nature of the service, including the complexity of the matters involved.

Should this change be made, the reference to a letter of engagement could then be removed from bullet point two in paragraph 50.

Are there additional relevant record keeping obligations than those listed at paragraphs 86 to 91 that have not been addressed by this TPB(I)?

The SMSF Association supports the guidance specifically stating that tax practitioners should not keep or retain originals or copies of any identification documents of clients and/or representatives due to the risks of physical and cyber identity theft.

We recommend this section should also reference the ability to use Australia's Digital ID System to verify a client's identity. Including this reference will help promote the new system, that has been designed to help protect individual's personal information with providers being accredited under the Digital ID Act 2024. It will also help limit the personal information that a tax practitioner must sight, and potentially retain, to verify a client's identity if they utilise the system.

While it is yet to pass Parliament, the *Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024* (AML/CTF Bill) will potentially require a large proportion of tax practitioners to comply with the AML/CTF obligations. Individuals and entities who must comply with these



obligations must then also comply with the obligations *Privacy Act 1988*, noting the small business exemption will no longer apply in such cases. We recommend that the TPB retain a watching brief on these reforms, and should the AML/CTF Bill pass, update the guidance in 2025 as early as possible to ensure that impacted tax practitioners are aware of their relevant obligations and prepare appropriately to ensure compliance.

Are there additional case study scenarios that would assist registered tax practitioners in understanding how the obligations apply practically? If so, what types of scenarios should be addressed?

We believe the case studies provided are sufficient for the purposes of how the obligations apply practically.

Are there additional practical considerations for registered tax practitioners relevant to the obligations in section 30 of the Determination that should be addressed in the guidance?

We are generally supportive of the draft guidance and do not believe there are further practical considerations that should be included at this time.

However, further to our comments above, should new related legislative obligations come into force such as AML/CTF and privacy, these should be incorporated into the guidance as soon as practicable.