

Commonwealth
Crest will appear
here

Tax Agent Services Amendment Regulations 2010 (No.)¹

Select Legislative Instrument 2010 No.

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Tax Agent Services Act 2009*.

Dated 2010

Governor-General

By Her Excellency's Command

[DRAFT ONLY – NOT FOR SIGNATURE]

Assistant Treasurer

CONSULTATION DRAFT

1 Name of Regulations

These Regulations are the *Tax Agent Services Amendment Regulations 2010* (No.).

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Tax Agent Services Regulations 2009*

Schedule 1 amends the *Tax Agent Services Regulations 2009*.

Schedule 1 Amendments

(regulation 3)

[1] After regulation 3

insert

Note Under subsection 90-1 (2) of the Act, expressions in the Act (other than the expression “this Act”) have the same meaning as in the *Income Tax Assessment Act 1997*. Therefore several words and expressions used in these Regulations have the same meaning as they have in the *Income Tax Assessment Act 1997*. For example:

- GST group
- stapled entity
- taxation law
- under common ownership.

[2] Regulation 6

omit

[3] After regulation 12

insert

**Part 5 Matters specified for
Dictionary in Act**

13 Specified services that are not tax agent services

- (1) For subsection 90-5 (2) of the Act, the following services are specified:
- (a) a service provided by an auditor of a self-managed superannuation fund under the *Superannuation Industry (Supervision) Act 1993*;
 - (b) a service provided by an entity to a related entity;
 - (c) a service provided by a trustee of a trust (or a related entity of the trustee) to the trust in relation to the trust's obligations under a taxation law;
 - (d) a service provided by a responsible entity of a registered scheme (or a related entity of the responsible entity) to the scheme in relation to the scheme's obligations under a taxation law;
 - (e) a service provided by a partner in a partnership (or a related entity of the partner) to another partner of the partnership in relation to the partnership;
 - (f) a service provided by a member of a joint venture (or a related entity of the member) to another member of the joint venture or an entity established to pursue the joint venture:
 - (i) in accordance with a written agreement; and
 - (ii) in relation to the joint venture;
 - (g) a service that is a custodial or depository service provided by a financial services licensee or an authorised representative of the licensee.

(2) For subsection 90-5 (2) of the Act, the following service is specified for the period starting on the day on which this regulation commences and ending on 23 April 2011:

- (a) a service that is financial product advice provided by a financial services licensee or an authorised representative of the licensee and is accompanied by a statement that:
- (i) the provider of the advice is not a registered tax agent under the *Tax Agent Service Act 2009*; and
 - (ii) if the receiver of the advice intends to rely on the advice to satisfy liabilities or obligations or claim entitlements that arise, or could arise, under a taxation law — the receiver should request advice from a registered tax agent.

(3) In this regulation:

authorised representative has the meaning given by section 761A of the *Corporations Act 2001*.

custodial or depository service has the meaning given by section 761A of the *Corporations Act 2001*.

financial product advice has the meaning given by section 761A of the *Corporations Act 2001*.

financial services licensee has the meaning given by section 761A of the *Corporations Act 2001*.

registered scheme has the meaning given by section 9 of the *Corporations Act 2001*.

related entity means:

- (a) an associated entity (within the meaning of section 9 of the *Corporations Act 2001*); or
- (b) a company under common ownership; or
- (c) a stapled entity or an associated entity of the stapled entity.

14 Specified services that are not BAS services

For subsection 90-10 (2) of the Act, a service that is provided by a member of a GST group to another member of the GST group is specified.

[4] Schedule 1, item 208

omit each mention of
item 204, 205 or 206

insert
item 203, 204 or 205

[5] Schedule 2, subparagraphs 101 (a) (ii) and 102 (a) (ii)

after
equivalent institution;

insert
and

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.