

Tax Practitioners Board
PO Box 1620 SYDNEY NSW 2001

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Australian Government



TAX PRACTITIONERS BOARD

Rachel Cosentino
President
Strata Community Australia (WA)
Ground Floor
215 Hay Street
SUBIACO WA 6008

Our reference:
Case Officer:
Telephone:
Facsimile:
Email: tham.dao@tpb.gov.au
Website: www.tpb.gov.au

Date: 12 January 2015

Dear Ms Cosentino

Potential breaches of the *Tax Agent Services Act 2009 (TASA)*

It has recently come to the attention of the Tax Practitioners Board (**Board**) that some of your members may be engaging in conduct that is prohibited by the *Tax Agent Services Act 2009 (TASA)*.

The Board's responsibilities under the TASA relevantly include administering the system for the registration of BAS agents and investigating conduct that may breach the TASA.

The Board is concerned that some of your members may be in contravention of the civil penalty provisions under Part 5 of the TASA by providing BAS agent services for a fee or other reward whilst unregistered as a tax agent or BAS agent. We understand that your members may not be charging their clients specific fees for the BAS services, but instead incorporating the amounts owing for these services under a general management fee.

We advise that in relation to fees for services, under the TASA a service is taken to be provided for a fee even if the fee for the service is bundled with other fees for other services.

We would be grateful if you could pass on this information to your members to ensure that they are aware of their legal obligation to become registered as a BAS agent or tax agent under the TASA if they are charging or receiving a fee or other reward for providing a BAS service.

To assist, a BAS service is defined in section 90-10 of the TASA as a tax agent service that relates to ascertaining, or advising about, an entity's liabilities, obligations or entitlements that arise, or could arise, under a BAS provision, or representing an entity in their dealings with the Commissioner in relation to a BAS provision, in circumstances where the entity can reasonably be expected to rely on the service for either or both of the following purposes:

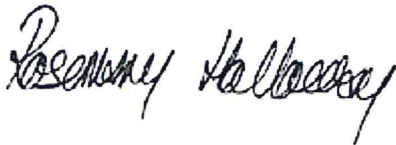
- to satisfy liabilities or obligations that arise, or could arise, under a BAS provision; and/or
- to claim entitlements that arise, or could arise, under a BAS provision.

Your members should also be aware that any contravention of the civil penalty provisions may result in court proceedings against the unregistered entity or individual. The Board may apply to the Federal Court of Australia for an order for pecuniary penalties of up to

\$42,500 against an individual and up to \$212,500 for a body corporate for each contravention. The Board also has the power to apply for an injunction to restrain conduct that breaches the civil penalty provisions of the TASA.

If you or any of your members require any further information in relation to the registration requirements or any of the issues raised above, please visit our website www.tpb.gov.au. You can also direct any enquiries to tpbwebsite@ato.gov.au, or alternatively you can phone 1300 632 829.

Yours sincerely

A handwritten signature in black ink that reads "Rosemary Holloway". The signature is written in a cursive style with a large initial 'R'.

Rosemary Holloway
Secretary
Tax Practitioners Board