



Tax Practitioners Board  
GPO Box 1620  
Sydney NSW 1620  
E-mail: [tpbsubmissions@tpb.gov.au](mailto:tpbsubmissions@tpb.gov.au)

**Submission from the Tax Justice Network Australia to the  
consultation on amending the tax practitioner code of conduct  
instrument  
20 November 2024**

The Tax Justice Network Australia (TJN-Aus) welcomes the opportunity to comment on the TPB draft information sheets. We welcome the reforms to the tax practitioner Code of Professional Conduct implemented by the *Tax Agent Services (Code of Professional Conduct) Determination 2024*.

**TPB Information Sheet TPB(I) D57/2024**

In the draft Information Sheet (TPB(I) D57/2024), we would recommend that the sheet encourage tax practitioners to voluntarily take appropriate action in the public interest if they become aware of a false or misleading statement by their client to conceal criminal activity beyond serious non-compliance of tax laws by the client. It is our impression that many of the peak bodies that represent tax practitioners do not see that members of their professional have a wider responsibility to act in the public interest and that their members should look the other way when clients are engaged in criminal activity the tax practitioners are not compelled by law to have to report. However, our view would be that if a tax practitioner becomes aware that a client is engaged in criminal activity such as wage theft, bribery of foreign officials, using proceeds of crime to make transactions, or fraud, including fraud against the Commonwealth Government, then the tax practitioner should be encouraged to make disclosures to the appropriate law enforcement authorities even though they are not required to do so by law. Taking such action should be seen as part of being ethical human beings. We believe Australian ethical norms would be that when the vast majority of Australians observe harmful criminal activity, they report it to the appropriate law enforcement authorities without the force of law compelling them to do so. Such a norm appears muted in some professions in Australia.

A similar position was adopted in the guidance for reporting entities under the *Modern Slavery Act*. While the obligations under the act only relate to modern slavery, reporting entities are encouraged to take action concerning other criminal labour exploitation issues even if they do not reach the threshold of being modern slavery.<sup>1</sup>

---

<sup>1</sup> Commonwealth Government, "Commonwealth Modern Slavery Act 2018. Guidance for Reporting Entities", May 2023, 53.

## **TPB Information Sheet TPB(I) D58/2024**

Given the behaviour of some PwC staff, paragraph 67 should make it explicitly clear that a tax practitioner is not free to disclose information they receive that would breach the terms of any written confidentiality agreement they have signed with an Australian government agency.

In paragraph 73, law enforcement strategies should be added as an example of information that may be received from an Australian government agency. Such information could allow a registered tax practitioner to advise clients on how to structure their tax affairs to defeat or obstruct law enforcement activity.

## **TPB Information Sheet TPB(I) D56/2024**

Consistent with paragraph 10, which requires that registered tax practitioners not engage in any conduct that they know, or ought reasonably to know, may:

- i. Undermine public trust and confidence in the integrity of the tax profession (including conduct that discredits the tax profession or brings the tax profession into disrepute) or
- ii. Undermine public trust and confidence in the integrity of the tax system

we believe the information sheet should seek to deter registered tax practitioners who market their services as finding loopholes for wealthier people to avoid paying tax. For example, Melbourne-based business Wealth Safe provides services to its clients to help them avoid paying taxes in Australia. Their website boasts:<sup>2</sup>

*Wealth Safe helps you take advantage of taxation loopholes to legally minimise your tax & keep your wealth safe. We implement creative tax strategies that stay strictly within the law & all ATO regulations. Our clients have saved over \$55 Million in tax 100% legally.*

*Get the advice the rich and famous know and exploit. Only 2 of the 56 richest people in Australia pay tax ... yet most of these wealthy citizens pay over \$1 million every year to their tax advisors!*

*Through Wealth Safe, you can use the same strategies as Australia's wealthiest for a fraction of the price.*

Such promotion is materially different from that of a registered tax practitioner who advises clients that they will ensure the client will be able to claim all the tax deductions that they are legitimately entitled to.

Under section 29 the following additional points should be added, noting that the ATO has raised public concerns over the abuse of legal professional privilege:

- Not abusing legal professional privilege or other tactics to obstruct audits by the ATO illegitimately; and,
- Not constructing or being party to complex legal structures to conceal the ownership of assets and transactions.

As background, we note in June 2022, the ATO issued a media release stating they were concerned that legal professional privilege claims were being “inappropriately asserted, either deliberately or through taking shortcuts, with the result that key materials, facts, and evidence were inappropriately withheld from the ATO.”<sup>3</sup> The media release stated the issue of “reckless” legal professional privilege claims “have largely arisen in relation to privilege claims made by large businesses that have received a formal notice as part of a dispute or

---

<sup>2</sup> <https://www.wealthsafe.com.au/about-us/>

<sup>3</sup> Australian Taxation Office, “ATO provides certainty on Legal Professional Privilege claims”, Media Release, 22 June 2022.

audit activity.”<sup>4</sup> It published a protocol for asserting legal professional privilege when entities respond to formal notices requiring the production of documents.

Previously, the ATO had stated that dozens of audits of major multinational corporations had been interrupted by “reckless or baseless [legal professional privilege] claims in an attempt to withhold facts and evidence from the Commissioner” in recent years.<sup>5</sup>

Dr Mark Zirnsak  
Secretariat  
Tax Justice Network Australia  
c/- 29 College Crescent  
Parkville, Victoria, 3052  
Phone: 0409166915  
E-mail: [mark.zirnsak@victas.uca.org.au](mailto:mark.zirnsak@victas.uca.org.au)

---

<sup>4</sup> Ibid.

<sup>5</sup> Hannah Wootton, “Complexity of ATO legal privilege rules could discourage their use: EY”, *The Australian Financial Review*, 28 September 2021.

## **Background on the Tax Justice Network and Tax Justice Network Australia**

The Tax Justice Network (TJN) is an independent organisation launched in the British Houses of Parliament in March 2003. It is dedicated to high-level research, analysis and advocacy in the field of tax and regulation. TJN works to map, analyse and explain the role of taxation and the harmful impacts of tax evasion, tax avoidance, tax competition and tax havens. TJN's objective is to encourage reform at the global and national levels.

The Tax Justice Network believes our tax and financial systems are our most powerful tools for creating a just society that gives equal weight to the needs of everyone. But under pressure from corporate giants and the super-rich, our governments have programmed these systems to prioritise the wealthiest over everybody else, wiring financial secrecy and tax havens into the core of our global economy. This fuels inequality, fosters corruption and undermines democracy. We work to repair these injustices by inspiring and equipping people and governments to reprogram their tax and financial systems.

The Tax Justice Network Australia (TJN-Aus) is the Australian arm of TJN.

In Australia, the current members of TJN-Aus are:

- ActionAid Australia
- Aid/Watch
- Anglican Overseas Aid
- Australian Council for International Development (ACFID)
- Australian Council of Social Service (ACOSS)
- Australian Council of Trade Unions (ACTU)
- Australian Education Union (AEU)
- Australian Manufacturing Workers Union (AMWU)
- Australian Nursing & Midwifery Federation (ANMF)
- Australian Services Union (ASU)
- Australian Workers Union, Victorian Branch (AWU)
- Baptist World Aid
- Caritas Australia
- Centre for International Corporate Tax Accountability & Research (CICTAR)
- Community and Public Service Union (CPSU)
- Electrical Trades Union, Victorian Branch (ETU)
- Evatt Foundation
- Friends of the Earth (FoE)
- GetUp!
- Greenpeace Australia Pacific
- International Transport Workers Federation (ITF)
- Jubilee Australia
- Maritime Union of Australia (MUA)
- National Tertiary Education Union (NTEU)
- New South Wales Nurses and Midwives' Association (NSWMWA)
- Oaktree Foundation
- Oxfam Australia
- Publish What You Pay Australia
- Save Our Schools
- SEARCH Foundation
- SJ around the Bay
- TEAR Australia
- The Australia Institute
- Union Aid Abroad – APHEDA
- United Workers' Union (UWU)
- Uniting Church in Australia, Synod of Victoria and Tasmania
- UnitingWorld
- Victorian Trades Hall Council
- World Vision Australia