

The BAS Agent Laws in a Nutshell

The New BAS Agent Laws take effect from 1 March 2010. This Fact Sheet is designed to provide you with a concise overview of the new laws and their impact on the bookkeeping industry.

The BAS Agent Laws are contained within the *Tax Agent Services Act 2009* and two related pieces of legislation often referred to as the “Regulations” and the “Transitional Rules”.

The legislation calls for the introduction of a national Tax Practitioners Board who, among other things, will oversee and regulate the supply of BAS Services to the public. Only bookkeepers who have applied to the Board for registration as a BAS Agent will be permitted to render BAS services to their clients. BAS services have been more stringently defined and capture the majority of services provided by most bookkeepers. The legislation imposes a range of civil penalties ranging from \$5,500 to \$137,500 (per offence) for illegally providing, representing that you provide, or advertising that you provide, BAS services.

BAS Agents under the new system will be subject to a Code of Professional Conduct which imposes a range of obligations, one of which is the compulsion to hold Professional Indemnity Insurance to a Board-specified level. BAS Agents will also be subject to a range of administrative sanctions and civil penalties. Clients of BAS Agents will benefit from so-called safe harbour provisions which provide relief from penalties in the case of error or late lodgement by the BAS Agent.

In order to become registered as a BAS Agent, a bookkeeper must satisfy the Board that they meet certain criteria. Firstly, the applicant must be a “fit and proper person”. Secondly, the applicant must satisfy an educational criterion, which at a minimum requires the attainment of a Certificate IV Financial Services (Accounting) or Certificate IV Financial Services (Bookkeeping). Thirdly, the applicant must demonstrate some 1400 hours of “relevant experience” in the past three years.

An alternative means by which one can be a BAS Agent is to be a member of a Recognised Professional Association (RPA), which refers to seven accounting bodies being the ICAA, CPA, TIA, NIA, ATMA, CIMA and ACCA. RPA Members must also demonstrate some 1000 hours of “relevant experience” in the past three years.

The new regime also contemplates the emergence of BAS Agent Associations who may assist the Board by providing Board-recognised courses for ongoing professional education and disciplinary purposes. Importantly, being a member of a BAS Agent Association will not in itself confer BAS Agent status on a person unless the earlier requirements regarding fit and proper person, education and experience are all implicit in that membership.

The Transitional Rules, broadly, provide an opportunity for bookkeepers who are already providing exempt BAS services under the existing s.251L to continue to do so for up to two years after the transition date. They also provide the same period for bookkeepers who are providing services that under the current laws do not constitute a BAS Service, but under the new laws, will. An example of this is the installation, configuration and training of accounting software. Transitioned bookkeepers can also attain an initial BAS Agent registration within the two year transition period by meeting fewer requirements than would ordinarily be the case, however a year after that initial registration, they will be required to renew their BAS Agent registration and demonstrate that they meet all criteria.

On Thursday 26 November 2009, the Assistant Treasurer, Nick Sherry, announced the commencement date of the BAS Agent Laws. Despite industry speculation that it would begin in January 2010, the Act will in fact commence on 1 March 2010.

The new BAS Agent era is likely to polarise the bookkeeping industry and will create two distinct strata of bookkeepers. One stratum will comprise those who can legally provide BAS services to the public; the other will comprise those who cannot. This is expected to lead to differences across the bookkeeping industry in terms of what services can be provided and at what cost. While it will likely result in some industry flight or, at the very least, the reshaping of some bookkeeper’s business models, it may also attract new entrants to new opportunities in what will be a forever changed industry.

ABN’s BAS wizard Partner Program enables our bookkeepers to comply with existing Section 251L laws, qualify for transitional relief under the BAS Agent legislation and accrue relevant experience to assist with future registration as a BAS agent.

At the onset of the new BAS Agent laws, ABN BAS will be providing you with solutions regardless of whether you choose to become a BAS Agent or not.

ABN BAS will be a BAS Agent, providing technical support, training and resources to BAS Agents and review and lodgement services to Non-BAS Agents. Membership of ABN BAS is complimentary and automatic to all Australian Bookkeepers Network (ABN) members.