

## **Terms of Engagement Brochure**

This brochure is to confirm our understanding of the terms of our engagement and the nature and limitations of the services we will provide specifically for individual tax returns.

### **Purpose and scope of engagement**

Our engagement is to prepare and lodge the annual income tax returns for yourself and any other entities you have advised.

Unless otherwise agreed, we will prepare the returns on an ongoing basis, in relation to the period following that for which the returns have most recently been finalised, and for each subsequent period.

You and each entity you have advised engages us on the terms set out in this letter and is bound by those terms. You are all jointly and severally liable to pay our accounts, regardless of which of the listed individuals those accounts are addressed to and regardless of which of the listed individuals received the benefit of the work performed.

Unless otherwise expressly agreed with you in writing, our services will be provided to you on a fee for service basis based on hourly rates.

This letter relates only to the abovementioned service and details the basis and terms of this engagement. Unless otherwise agreed, our engagement will be limited to the matters described in this letter. Work that is performed or disbursements that are incurred, which are outside the scope of this letter, will be the subject of additional charge.

### **Basis of engagement**

Our engagement is to assist with the preparation and lodgement of the taxation returns for yourself and other entities advised.

### **Taxation services**

In engaging us to provide taxation services, it is important for you to understand that:

- You are responsible for the accuracy and completeness of the particulars and information provided to us by you.
- Any advice we provide is only an opinion based on our knowledge of your particular circumstances.
- You have obligations under the self-assessment regime to keep full and proper records in order to facilitate the preparation of accurate returns.

### **Documentation**

Before we lodge any returns on your behalf, we will forward the documents to you for approval. We will endeavour to ensure that the returns are lodged by the due dates. If you are late in providing information, we will do our best to meet the time limits, but we will not be responsible for any late lodgement penalties or interest charges you may incur.

### **Ownership of documents**

The tax returns that we are specifically engaged to prepare, together with any original documents given to us by you, shall be your property. Any other documents brought into existence by us, including general working papers, the general ledger and draft documents, will remain our property at all times.

If our services are terminated (by either party), each person separately agrees that we shall be entitled to retain all documents owned by that person (including all tax refund cheques of that person which come into our possession) until payment in full of all outstanding fees from you and your family on any account. Where copies of any documents released to you are required for our records, you will be charged for the cost of photocopying at our normal rates.

### **Additional services**

The scope of our engagement is the preparation and lodgement of the taxation returns detailed above. Any agreed fee applies only to services and advice provided within the scope of this letter. This fee includes the checking and forwarding of original assessments and original payment notices that are received from the Australian Taxation Office.

However, any additional services or advice that you request are outside the scope of this letter and are not included in this agreed fee. These services will be charged on the basis of the time and degree of skill and acumen required to complete the task undertaken by us, including any direct out-of-pocket expenses. Please note in particular that any correspondence from the Australian Taxation Office that does not relate to initial assessments nor original payment notices will be charged as additional services.

We do not provide advice on Centrelink entitlements or Government Age Pensions. You should seek advice from an appropriately qualified financial planner or Centrelink.

### **Disbursements**

Certain disbursements may be incurred from external suppliers (couriers, ASIC fees, other Government fees etc.), which will be charged to you at cost plus GST.

Unless otherwise stated in writing, any estimates which we provide to you of our anticipated fees, disbursements and charges for any work are only indicative of the amounts you can expect to be charged. Estimates are not quotes or caps and are not binding on us.

Where an estimate is given and the scope of the work changes, or if it becomes apparent that the work involves matters that were not taken into account in the estimate, we will endeavour to advise you and provide an amended estimate as soon as it is practicable to do so.

The use of our trust account may incur a processing fee at the time of the transaction.

Each adult individual in the Group is jointly and severally liable to pay our fees in respect of all work performed for all members of the Group.

### **Non-compliance with Laws and Regulations (NOCLAR)**

During the performance of our work under this engagement, we may detect conduct or a transaction that is considered to constitute NOCLAR, which has a material effect on any documents or information that might be required to be provided to a regulatory authority (**RA**), such as the ATO.

If we detect any NOCLAR, we may have an ethical requirement to make a disclosure to a RA. We will follow a formal process which will include advising you of our concerns, and if necessary, seeking legal advice. If we do seek legal advice we reserve the right to ask you to pay or reimburse us for our reasonable costs.

If we are required to make a disclosure to a RA, you agree to forever release us from any claim for costs or losses you incur in responding to or dealing with anything that arises from our disclosure.

### **Losses from Unauthorised Cyber-Activity**

We will take all reasonable precautions to ensure that any electronic data that contains your private information is securely stored and that any email transmissions are protected and are not able to be intercepted by third parties. However, we cannot be held liable for any loss that you might incur as a consequence of any third party intervention that accesses, procures or copies any data that contains your private information from any medium or device we use to store or transmit such information.

In the event that, despite our firm having taken reasonable precautions to securely store your private information, you suffer any losses arising from unauthorised cyber-activity, you agree to forever release us from any claim for your losses.

### **Limitation of liability**

Our firm's liability may be limited by a scheme approved under Professional Standards Legislation.

We shall now outline the basis of our engagement in the context of the specific services to be provided.

It should be noted at the outset that as a general proposition we rely upon our clients to provide us with accurate and timely information to enable us to properly perform our engagement obligations. Consequently, any rectifying work performed by us on the basis of incorrect or late information will be work that is outside the scope of this letter and will be charged as additional services.

### **Information relating to your affairs**

From time to time our firm and our third party contractors may engage external IT service providers (including in relation to 'cloud computing 'services) in the performance of services under this engagement. Each entity in the Group hereby authorises us and our third party contractors to disclose information relating to those clients affairs to all such external IT service providers as we or our third party contractors may choose to engage.

We may also need to disclose information relating to one client's affairs to other clients in the Group to assist in performing our work, or to a professional body of which we are a member in relation to a quality review program undertaken by that body. Each client in the Group hereby authorises us to do so when we consider it appropriate to further our performance of work for the Group, or when required by that professional body.

### **Income tax returns**

This firm has been engaged to prepare and lodge income tax returns for yourself and other advised entities.

Please ensure that you have all source documentation available to allow this firm to analyse the income tax implications of any transaction, if we request to see it. Whilst we will not as a matter of course be looking at these documents, the ATO will expect you (and you are required) to have them available before any claim is made in your income tax return. We may in some circumstances also request to see source documents if a tax issue is particularly contentious.

It is also expected that, in respect of individual income tax returns, each person will have the necessary documents so as to comply with the substantiation provisions of the *Income Tax Assessment Act*.

We will specifically advise as to the requirements of the substantiation provisions relating to your income tax return and of the necessity to obtain acceptable receipts as specifically required by the legislation. We will not, however, be checking that the requirements of the substantiation provisions have been satisfied.

This specifically means that we will not be reviewing your log book or any calculations or information you provide us, for example a rental property schedule either prepared by you on spread sheet or by a property manager. If you require assistance in completing a log book or preparing any calculations or you would like us to review such work, please discuss this with us. This will entail work that is outside the scope of this letter and will be charged as additional services.

From time to time, this firm prepares templates and schedules to assist with the collation of information to complete income tax returns. These will be provided free of charge.

The fee for this service does not cover any inquiries made to us or investigations involving us conducted by the Australian Taxation Office. Substantial penalties apply for an incorrectly prepared income tax return. If you have any queries in respect to this, please contact our office for assistance.

You and each person in your family agrees that we can bank into our trust account tax refund amounts received on behalf of that person and can deduct from those amounts any fees owed to us either by that person or by any other member of the family.

## **Privacy Policy**

We are committed to complying with the Privacy Act 1988 (Cth) (Privacy Act) in relation to all personal information we collect. Our Privacy Policy can be reviewed at <https://www.collinshume.com/privacy>.

## **Clients' rights and obligations under the taxation laws**

As a client of this practice, we are obliged to advise you of your rights and obligations under the taxation laws in relation to the services we provide to you. Set out below is a brief explanation of the main areas of the taxation system you should be aware of. If you have any concerns or issues with any of matters discussed below, please feel free to contact us.

### **The self-assessment system**

The Australian tax system operates as a self-assessment system. This means that when your tax return, Fringe Benefits Tax (FBT) return or Business Activity Statement (BAS) is lodged, the Australian Taxation Office (ATO) accepts the information in the return at face-value and issues you with an assessment notice based on that information. It is important to understand that this does not mean the assessment is final as the ATO can conduct a review or audit of the information provided in the return at a later time, subject to the time limits discussed in the topic below.

### **The Commissioner's ability to amend an assessment**

As explained above, the ATO accepts the information lodged in your return at face value. However, the ATO also has the power to amend the assessment if they find it to be incorrect. The following rules generally apply:

#### **Individuals**

- For most individuals, the ATO can amend an assessment within two years after you receive your notice of assessment. If the individual carries on a business and is **not** a Small Business Entity, that period extends to four years.
- If the individual is a partner in a partnership or a beneficiary of a trust, the period is two years. If the partnership or trust carries on business and is **not** a Small Business Entity, the period extends to four years.

If the ATO amends an assessment, this will potentially involve, apart from increased taxes, penalties and interest. If you discover an error in the information declared in the return, lower penalties generally apply for making a voluntary disclosure.

*Note that there are no time limits on the ATO amending an assessment where they believe there has been fraud or evasion.*

### **Obligation to keep records**

The tax laws specifically require taxpayers to keep records that properly explain the transaction they have entered into.

#### **Individuals**

Individuals claiming deductions for work-related expenses are subject to the substantiation rules in the tax laws. This requires taxpayers to keep receipts, invoices etc., of the expenses they incur. Where the expenses relate to a taxpayer travelling interstate or overseas, a travel diary may also need to be kept. Where the expense relates to a motor vehicle, a record of the journeys taken such as a log book may need to be kept.

A failure to keep the appropriate records can lead to the ATO denying a particular deduction which may involve the imposition of penalties and interest. Substantiation records must be retained for five years.

### **Obligation to provide complete and accurate records**

In order for our practice to be able to lodge returns on your behalf, it is your responsibility to provide us with complete and accurate records. Further, in order to lodge your return on time, we will require you to provide us the relevant information as and when requested.

Where you are unable to provide us with complete and accurate records, we may be unable to prepare and lodge your return. Tax agents are subject to a Professional Code of Conduct contained in the *Tax Agent Services Act 2009*, which prevents them from acting for a client where insufficient records or information exists so as to be able determine the amount of the client's income or deductions.

### **Records for clients operating in the cash economy**

Because of the ATO's concerns with dealings in the cash economy, there are particular recording imperatives for clients who operate in that sector. In particular, the ATO has a program of "benchmarking" standardised revenue returns for a wide range of cash businesses.

In circumstances where it is dissatisfied with a taxpayer's records or recording systems, the ATO will often assess income tax and/or GST on what it considers to be an appropriate "benchmark" amount (plus penalties and interest) and then put the taxpayer to the task of disproving that assessment.

Where that occurs, the taxpayer is at a serious disadvantage and can be put to a great deal of cost and effort in disputing the assessment.

Taxpayers who operate in the cash economy are therefore urged to have a robust and reliable system for recording and reporting all cash transactions and to ensure that the recorded figures are accurate.

If you need assistance in setting up or reviewing your recording and reporting systems, we will be happy to do so and will advise you of our rates for doing so on request.

### **Right to seek a Private Binding Ruling**

When preparing your return, we may identify one or more issues that are not clear under the tax laws. Where we have pointed out such issues to you, you have a right to request a Private Binding Ruling from the ATO. Upon providing the ATO with all the relevant facts, they will provide you with a ruling setting out their view on the proper tax treatment of the issue requested to be ruled upon.

### **Objecting to an assessment**

If the ATO issues you with an assessment that you do not agree with, you have the right to lodge an objection to that assessment. The objection must be lodged with the ATO within either two or four years. As to which period applies, this is determined in the same way as the discussion above under the heading '*Commissioner's ability to amend an assessment*'.

Where the ATO issues an amended assessment, the period for objecting is the greater of:

- 60 days from the time the amended assessment is received; or
- two or four years (whichever is applicable) from the time the original assessment was received.

If you remain dissatisfied with the outcome of the objection, you have the right to have the matter reviewed by the Administrative Appeals Tribunal or to appeal the matter to the Federal Court.

### **Onus of proof falls on the taxpayer**

It is important to be aware that in any disputed assessment before the court or the Administrative Appeals Tribunal, the onus of proof is placed on the *taxpayer*. In other words, if the Commissioner asserts that your income should include a certain amount or that a deduction claimed in a return is not allowed, it will be up to you to establish that the Commissioner's view is incorrect.

### **Your protections under TASA**

The *Tax Agent Services Act 2009* (TASA) and complimentary amendments to the applicable taxation administration legislation provide statutory protections for taxpayers who engage registered tax agents.

In particular, as your tax agent, we are bound by a statutory Code of Conduct which is administered by a new national Tax Practitioners Board. That Code requires us, amongst other things, to act lawfully in your best interests and with honesty and integrity in the performance of our duties.

In addition, as the client of a registered tax agent, you have statutory "safe harbour" exemptions from penalties in certain circumstances.

**When did the safe harbour provisions commence?**

The safe harbour can only apply for returns lodged on or after 1 March 2010.

**How does the safe harbour work?**

In order to benefit from the safe harbour should the need arise, it is a requirement for you to ensure that you provide us with all of the relevant tax information. This includes any records, or documents we request from you plus any other information relevant to the preparation of your tax return. The information provided must be complete and accurate.

It is equally important that you provide us with this information by the time it is requested so as to allow the return to be lodged by its due date. The safe harbour from late lodgment penalties can also apply where a Business Activity Statement, Instalment Activity Statement, or Fringe Benefits Tax return is lodged late.

**What does the safe harbour apply to?**

Whilst the safe harbour can apply to exempt the penalty for an error made in a tax return, it is important to note that the tax and interest will be still be payable.

**What if the safe harbour does not apply?**

Even if you are not eligible for the safe harbour, it is still possible to request the ATO remit or reduce the penalty.

**Confirmation of Terms**

Acceptance of our services in conjunction with this information brochure indicates that you understand and accept the arrangements. This information will be effective for future engagements unless we advise you of any change.