

Article Information

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Are Orders the New Middle Ground in Tax Practitioners Board Sanctions, the Tribunal thinks so

AUZ Taxation Pty Ltd and Bagga v Tax Practitioners Board [2025] ARTA 1711

The Administrative Review Tribunal (**Tribunal**) has set aside the Tax Practitioners Board's (**TPB's**) decisions to terminate both the individual and corporate registrations of Mr Sumit Bagga and AUZ Taxation Pty Ltd, respectively, and has instead issued written cautions pursuant to section 30-15(2)(a) of the *tax Agent Services Act 2009* (**TASA**) coupled with detailed, time-bound orders under section 30-20 of the TASA.[\[1\]](#)

The decision in *AUZ Taxation Pty Ltd and Bagga v Tax Practitioners Board* [2025] ARTA 1711 (**Decision**) is significant because it replaced a termination decision with a structured order enabling the tax agent to continue to practice. In doing so, it demonstrates how the Tribunal evaluates the orders and sanctions available, and that orders under section 30-20 of the TASA can be used as a structured, and deployed sanction allowing a practitioner to continue to act can be preferred to a suspension or termination of registration as a tax agent where the tax agent recognises and owns the contraventions and there is low risk of future contravention.

The Decision has been appealed by the TPB to the Federal Court of Australia.

Background

Mr Sumit Bagga (**Mr Bagga**) was a registered individual tax agent and AUZ Taxation Pty Ltd (**Company**) a registered company tax agent, that operated a multi-site practice servicing 5,500 of clients.[\[2\]](#) In 2022, an employee, Mr Kumar, not Mr Bagga, benefited from a false GST refund using the ATO's Online services after gaining access to the Australian Taxation Office tax agent portal with credentials that were not his own.[\[3\]](#) Some access continued via another person's credentials even after the fraudulent refund was detected by the ATO.[\[4\]](#) On 25 January 2024, the TPB terminated the registrations of Mr Bagga of his personal registration as a tax agent as he was no longer deemed a fit and proper person, being an eligibility requirement of registration. The Company's registration as a tax agent was terminated too as it no longer met the eligibility requirements of having a sufficient number of supervising registered tax agents to ensure competent services and supervision.[\[5\]](#) A one-year non-application period in accordance with section 40-25 of the TASA was also imposed on Mr Bagga.[\[6\]](#) Mr Bagga and the Company sought a review of the decisions in the Tribunal.

The Tribunal's findings

The Tribunal accepted that there were serious contraventions of the Code of Professional Conduct which is expressed in section 30-10 of the TASA. The Tribunal found that sharing credentials including a non-employee's, allowing access to the ATO portal after the fraudulent refund, and signing a Statement of Relevant Experience known to be incorrect amounted to breaches of honesty and integrity and competency and supervision.[\[7\]](#) The Tribunal also accepted breaches for late lodgements in the practitioners' personal or associated entities' affairs, although those issues had been rectified by the time of hearing.[\[8\]](#)

There were not breaches of failing to act within the best interests of the client, or for failing to respond to the TPB in a responsible or reasonable manner.[\[9\]](#) The entities involved in the fraudulent refunds were not actual clients at the relevant time, and the correspondence records showed the responses to the TPB were broadly timely and candid.[\[10\]](#)

Importantly, the Tribunal concluded that, at the time of its decision, Mr Bagga was a fit and proper person. While the conduct demonstrated poor judgment and a lack of integrity in discrete respects, it did not involve personal dishonesty. The Tribunal was satisfied that remediation was underway, that client services were otherwise not shown to be deficient,

and that risk to the public could be managed through enforceable orders rather than termination.^[11] This reasoning is consistent with the protective purpose of TASA and the proportionality principle that sanctions should go no further than necessary to protect the public.^[12]

Why termination was overturned and replaced with orders

TASA provides a ladder of responses when code breaches are established. The TPB may give a written caution, make orders, suspend, or terminate registration.^[13] Separately, Part 4 allows termination if a practitioner ceases to meet registration requirements for example, where a tax agent fails to meet one of their tax practitioner registration requirements, such as no longer being deemed a fit and proper person or fail to have sufficient supervision capacity. It is common for individual tax agents to be terminated when determined that they are no longer fit and proper persons. That being noted, section 30-15(d) and by extension section 30-30 of the TASA allows the TPB to terminate the registration of a tax agent when there is a proportionate breach of the Code of Professional Conduct. This termination differs from a finding that an individual is no longer a fit and proper person.

Here, the Tribunal carefully assessed proportionality and the protective aim. It considered that termination would be unnecessarily punitive given the scale of the client base and the Tribunal's view that the risks were controllable through targeted measures.^[14] The Tribunal explicitly preferred a caution with structured orders to achieve both specific and general deterrence without unnecessary client disruption. The Tribunal also relied on the breadth of the powers under section 30-20 of the TASA and the Company and Mr Bagga's willingness to adopt undertakings that could be converted into orders.^[15]

What the Tribunal ordered under section 30-20 of the TASA

The Tribunal imposed a staged remediation plan with deadlines and reporting, using the flexibility in section 30-20 of the TASA to create a structured order. The orders required the Company and Mr Bagga to do the following:^[16]

- **Transparency:** Within one month, providing the Tribunal's reasons and orders to all existing clients, employees and contractors, and within 14 days thereafter report completion to the TPB with a list of recipients.
- **Control training:** Within two months, deliver compulsory training to all staff and contractors on myGovID and the ATO's Online services for agents terms and conditions.
- **Governance uplift:** Within three months, appoint at least one additional director who is a registered tax agent and notify the TPB.
- **Supervision uplift:** Within six months, ensure there is at least one registered tax agent per Company branch and that person is required to individually review any documents lodged with the ATO, with notification to the TPB of these appointees.
- **Principal education:** Within twelve months, Mr Bagga must complete a TASA Code of Professional Conduct Course offered by The Tax Institute as well as a Certificate IV in Human Resource Management offered at Swinburne University, and provide evidence of completion to the TPB.

These requirements directly address the precise failures identified in the proceedings. The transparency obligations ensure clients and staff understand what occurred and what is being done about it. The control training ensures the Company is compliant with respect to the ATO's online services terms of use and use of myGovID. The governance and supervision orders build durable capacity by requiring a registered agent in every branch and a documented, auditable pre-lodgment quality review process by the registered tax practitioner. The remedial education order targets leadership capability so that Mr Bagga can drive the necessary compliance culture. Because the orders are time-boxed and reportable, non-compliance creates a clear record for escalation if required.

Section 30-20 of the TASA orders as a structured happy median

This Decision provides a practical solution for using structured orders under section 30-20 of the TASA as a middle-ground sanction and as an alternative to suspension or termination. Rather than simply requiring a generic course, the orders amount to a compliance program embedded in a statutory instrument, which is specific to the TASA breaches at hand. The approach preserves continuity for clients while materially raising the standard of systems, governance, and oversight inside the practice. In the process, it shows how these orders can avoid the historic 'too soft or too hard' dichotomy between a written caution and termination.

How this sits with fines and the broader TASA reform agenda

Treasury's December 2023 consultation, released as part of the Government's response to the PwC matter, proposes to broaden and modernise the TPB's sanctions toolkit under the TASA. In addition to re-introducing criminal penalties for unregistered preparers, the paper canvasses expanded civil penalties (including for breaches of the Code of Professional Conduct), higher maximum penalty amounts, and a suite of mid-tier, faster-acting tools such as infringement

notices, enforceable voluntary undertakings, and interim or contingent suspensions. The consultation expressly aims to fill gaps in the current framework and to give the TPB a more proportionate and agile set of responses.^[17] In a recent article published on the TPB's own website, the TPB express that the new sanctions regime is proposed to commence on 1 July 2026.^[18]

Against that backdrop, the Decision demonstrates that even before legislative changes fully arrive, orders under section 30-20 of the TASA can deliver real-time risk mitigation. In other words, fines remain necessary for deterrence, particularly for egregious breaches and unregistered work, and the more serious sanctions are necessary for those who have egregious breach the Code of Professional Conduct. However, orders may, and as is shown in this matter to be a better suited tool to address any shortcomings of practitioners albeit protecting the public. The optimal regulatory mix is therefore to use orders to stabilise the control environment quickly, and reserve suspension or termination for dishonesty, recidivism, or unmanageable risks to the public or to the Commissioner

Conclusion

The Decision shows that suspension or termination is not the only way to protect the public. Where a practitioner is presently fit and risks are controllable, a caution supported by structured orders under section 30-20 of the TASA can protect clients and the integrity of the system while preserving continuity of service. This decision also highlights that the evaluation of one's standing as a fit and proper person is at a point in time. Therefore, if significant time passes from the time between the decisions, the tax agent does have the ability to demonstrate that they now satisfy the requirements. Is this a one off decision, or will both the Tribunal and the TPB opt for a tiered range of orders before deciding to terminate one's registration. It will depend on the outcome of the current proceedings in the Federal Court.

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^[1] *AUZ Taxation Pty Ltd v Tax Practitioners Board* [2025] ARTA 1711 [150].

^[2] *Ibid* [87].

^[3] *Ibid* [17].

^[4] *Ibid* [23]-[7].

^[5] *Ibid* [4]-[6].

^[6] *Ibid* [5].

^[7] *Ibid* [112]-[4]; TASA ss 30-10(1),(7).

^[8] *Ibid* [134]-[6]; TASA s 30-10(2).

^[9] TASA ss 30-10(4),(14).

^[10] *AUZ Taxation Pty Ltd v Tax Practitioners Board* [2025] ARTA 1711 [99]-[104], [115]-[21].

^[11] *Ibid* [141]-[9].

^[12] *Ibid* [73].

^[13] TASA s 30-15(2).

^[14] *AUZ Taxation Pty Ltd v Tax Practitioners Board* [2025] ARTA 1711 [145]-[7].

^[15] *Ibid* [75].

^[16] *Ibid* [150].

[17] Commonwealth Treasury, 'Consultations', *Response to PwC - Enhancing the Tax Practitioner Board's sanctions regime* (Web Page) <<https://treasury.gov.au/consultation/c2023-471426>>.

[18] Tax Practitioners Board, 'Treasury consultation outcomes to enhance the TPB's sanctions regime and modernise the registrations framework' (Web Page)
<https://www.tpb.gov.au/treasury-consultation-outcomes-enhance-tpbs-sanctions-regime-and-modernise-registrations-framework#:~:text=The%20proposed%20start%20date%20of,penalties%20amounts%20in%20the%20TASA.>