



ASIC
Australian Securities &
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and Investments Commission**

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Mr Channa Wijesinghe
Chief Executive Officer
Accounting Professional & Ethical Standards Board
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22 May 2022

Dear Channa

Taxation advisory and planning services provided by auditors of public interest entities

We understand that the APESB intends to decide on an approach to the provision of taxation advisory and planning services by auditors of public interest entities (PIEs) at its meeting on 3 June 2022. APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) would be amended accordingly.

Background

The quality of the financial report supported by the independent audit is important to confident and informed markets and investors. An auditor should be independent and objective in fact and appearance when forming an opinion on the financial report.

There is likely to be a self-review threat to the auditor's independence where an audit firm provides advice to an audited entity on a matter that can result in a material difference in the entity's financial report. Where the auditor's advice is used to support the entity's position with a regulatory body or in a court or tribunal, there is also likely to be an advocacy threat.

The Code currently prohibits an audit firm from providing valuation advice that has a material impact on the financial report of an audited PIE where the valuation involves a significant degree of subjectivity. However, taxation advice can be provided where the advice has a basis in law that is likely to prevail. That is, the firm is only required to be satisfied that the advice is more

likely rather than less likely to prevail. That test applies in determining whether there is a self-review threat or an advocacy threat.

Comments

In our view, the Board should amend the *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) to prohibit auditors from providing taxation advisory and planning services to PIEs that they audit.

If the Board decides not to prohibit auditors from providing taxation advisory services to audited PIEs, the Code should be amended to:

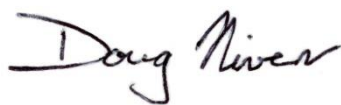
- (a) prohibit an auditor from acting as an advocate for a PIE that they audit on a taxation issue with the ATO or in a tribunal or court; and
- (b) replace the criterion for an auditor to provide advice from their view having "a basis in law that is likely to prevail" with "a basis in law that is almost certain to prevail".

Ensuring confidence in the independence and objectivity of the auditor is likely to outweigh any additional costs for PIEs and auditors that may result from:

- (i) the loss of any synergistic cost benefits associated with one firm providing both tax advisory and audit services; and
- (ii) the process of PIEs changing their tax advisers or auditors following a change in the Code.

Please do not hesitate to contact me should you have any questions.

Yours sincerely



Doug Niven
Chief Accountant