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BAG Issues Log Item 08-001: BAS SERVICE PROVIDER SEMINAR

Log Item sent: 30/05/2008

Maria Benardis, of AAPB forwarded the following agenda item to the BAG committee on 30 May 2008:

BAS SERVICE PROVIDER SEMINAR (AAPB)

"I attended the above seminar on 28 May 2008 and overall I was pleased with the content of the seminar. The seminar presenter appeared to have great knowledge on most of the areas covered and this was a great initiative undertaken by the ATO. The volume of material covered was however overwhelming and some areas that were addressed were either inappropriate or not covered satisfactorily. The following areas were of concern for AAPB:

1. Section 251L of the ITAA 1936 - The coverage was poor and extremely disappointing. Instead of clarifying the operation of this section the presenter created confusion and misunderstanding. There was also no mention that bookkeepers should not be venturing into income tax territory. In actual fact it was implied that this was acceptable because bookkeepers "do CGT calculation in anycase".

When the audience asked questions on the operation of this section the speakers response was that it was a "grey area," and was reluctant to take questions. In addition there was no mention of the good material on the ATO web-site that deals with this area.

I was disappointed to witness more time spent on the CGT slides than on section 251L of the ITAA 1936. AAPB believes that this was an important opportunity for the ATO to educate bookkeepers on section 251L and the opportunity was missed.

2. There was also content in the seminar that we felt was inappropriate for example CGT and tax depreciation examples cited. Whilst we appreciated that bookkeepers should be aware of the existence of these areas of tax we believe it is inappropriate for detailed information and examples to be given and explained in such a session. There is also a need for the ATO to make it clear that income tax is the role of a tax agent and that bookkeepers should be speaking to their tax agent, otherwise they would be breaching section 251L of the ITAA 1936. When I quizzed the speaker on the appropriateness of the CGT calculations and advising the client on such matters he appeared to be supportive of the fact that bookkeepers should be performing such calculations and he did not appear to have any concerns. In fact he specifically stated that bookkeepers "do CGT calculation in anycase". AAPB is of the view that the ATO should not be encouraging bookkeepers to be performing income tax related duties and charging a fee for them and hence breaching section 251L of the ITAA 1936. Furthermore, it would appear that there may be a training issue or a lack of understanding on the operation of section 251L of the ITAA 1936. We also believe that an opportunity should be given to



the BAG committee to review proposed seminar content to ensure appropriate bookkeeper related tax material is addressed.

3. There were some statements made that were technically incorrect. For example "there is not FBT on items that are salary packaged other than if it is superannuation for a spouse". This is quite clearly incorrect. Many items that are salary packaged are subject to FBT and I pointed this out to the speaker. The speaker undertook to change the ATO slides to reflect this inaccurate statement.

Can the ATO please comment on this feedback".

ATO response received 7 July 2008

"I refer to your email of 30 May 2008 where you brought up the issue of BAS Service Provider Seminars conducted by the Tax Office, and specifically one that you attended in Sydney on the 28th May.

We appreciate your feedback on this issue and your comments have been forwarded to the various parties involved for consideration and review of material being used.

Your suggestion 'that an opportunity should be given to the BAG committee to review proposed seminar content to ensure appropriate bookkeeper related tax material is addressed' is something that does receive consideration when seminars are being designed. It was explained at the last BAG meeting that this normal approach could not be adopted on this occasion in view of the extremely tight timeframe available to develop and implement the national seminar series. While not always BAS specific, the decision to rely on existing content, in effect, enabled the seminars to go ahead.

Individual presenter styles and interpretation can also have an influence on the way messages are communicated. While we try to ensure as much as possible that there is consistency in messages being presented, some variation can occur. Again, this issue will be addressed in communications with parties involved in the preparation and presentation of these materials.

As far as having this as an agenda item at the next meeting, Greg Lansdell advises me that this issue will be part of his BSP Integration Project report so there will be opportunity to comment or discuss at that time.

Thank you for your interest and feedback."

AAPB response sent to the ATO on 11 July 2008

The ATO in a supplementary outlined the following:

"As far as protocols of other Tax Office committees goes, I'm not sure what you're referring to. The ATPF (our umbrella body) certainly doesn't automatically include all items submitted for the agenda in their meetings. The ATPF gives consideration to all matters submitted but ultimately it is the decision of the chair as to which items are included. In this aspect the BAG operates on the same principles as the ATPF".

In relation to the above comment I am not entirely in agreement with the comments made. Your comments appear to offer an explanation as to why the ATO has not been including any of our agenda items on the official BAG committee agenda or formally recording them in any other ATO document. The practice at ATPF was to include agenda items submitted from professional associations on the official agenda. These



agenda items were usually agreed to by the professional bodies represented on the ATPF committee. A telephone hook-up would take place where the professional associations would agree on the priority and which issues would go forward. A further telephone hook-up would then take place with all ATPF members including the ATO to discuss the agenda and to further prioritize the agenda items. We would also clarify any questions the ATO had in relation to any of the agenda items. A formal democratic process was in place that every party understood and was clearly made aware of. The BAG committee does not have such a practice or any formal practice in place.

In addition to this practice, any other issues and issues that arose out of session would be forwarded to PALU by each individual professional association. PALU would then circulate these out of session to all ATPF committee members along with the ATO responses. The finalised issues would then be published on the ATO web-site. The BAG committee does not have this practice in place either.

In light of these comments I am of the view that the ATO needs to present to the BAG committee at the next meeting a written policy on how it proposes to manage agenda items and issues raised. There is also a need for a formal documented process to be devised for the management of any issues raised.

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