

# Board of Taxation Policy

## Managing Conflicts of Interest

Date adopted/last reviewed: 1 July 2022

---

### 1. Policy Objectives

- 1.1 The overarching objectives of this policy are to encourage and maintain a high level of functionality within the Board (and its working parties), and public confidence in the Board's work.
- 1.2 Specifically, this Policy aims to achieve the overarching objectives by achieving a balance between:
  - (a) Board members being encouraged to bring to Board discussions and deliberations the benefit of their individual backgrounds (in terms of their professional involvements, skills, experience and interests); and
  - (b) the careful, consistent and transparent management of the potential for the individual backgrounds of Board members to lead to damaging conflicts of interest, whether actual or perceived.
- 1.3 This Policy therefore aims to provide Board and Secretariat Members with a clear understanding of the principles applied in relation to the Board around the management of Conflicts of Interest.

### 2. Conflicts of Interest Policy and Principles

#### Policy Statement

- 2.1 All Board members, and members of working parties convened by the Board, are expected to:
  - (a) contribute fully and frankly to the discussions and work of the Board, drawing on their individual backgrounds, including their professional involvements, skills, experience and interests; and
  - (b) strive to avoid actual conflicts of interest and the perception, whether founded or not, of a conflict of interest which may arise as a result of some aspect of their individual background conflicting or being perceived to conflict with their work for or within the Board.

#### Principles

- 2.2 In order to give effect to the policy statement in paragraph 2.1, the principles to which Board members, and the members of working parties of the Board, are to adhere in relation to their participation in the work of the Board and of its working parties are as follows:
  - (a) *Paramount Responsibility to the Board* – the paramount responsibility of those working for or within the Board is to the Board and the fulfilment of its charter, and any potential conflict between this responsibility and other competing interests and duties of the individual must be managed and resolved in favour of the paramount responsibility to the Board, in order to avoid a conflict of interest;

- (b) *Conflict of Interest* – a conflict of interest should be considered to exist in circumstances where a competing interest and/or duty of an individual cannot be managed in a way that maintains the paramount responsibility to the Board;
- (c) *Transparency* – confidence in the Board’s work is greatly enhanced by ensuring clarity for readers of the Board’s publications, and for those participating in Board or working party discussions and deliberations, about the relevant individual backgrounds of those involved in the Board’s publications and its discussions and deliberations;
- (d) *Consistency* – the confidence of those involved in the work of the Board is greatly enhanced by ensuring a consistent approach to the way actual (and perceived) conflicts of interest are handled within the Board and its working parties;
- (e) *Fairness* – the confidence of those involved in the work of the Board is greatly enhanced by giving individuals the opportunity to consider carefully the extent and context of any particular conflict of interest (actual or perceived) affecting them in order to handle it in a fair and appropriate way in the circumstances;
- (f) *Individual responsibility* – Each member of the Board and of its working parties is responsible to protect both internal and public confidence in the Board and thus to ensure that they are aware of, and adhere to, the requirements of this policy;
- (g) *Shared responsibility* – Adherence to this policy is also the collective responsibility of the Board (including the Secretariat) and so ought to be a matter for open discussion within the Board and its working parties when there is any question as to the application of this policy to any particular situation;
- (h) *Public Interest* – given the nature of the Board and its work, the above principles should also be applied having regard to what members of the public might reasonably expect of the members of such a Board.

### **3. Protocol: Policy and Principles in Practice**

#### **Public disclosure of certain information**

- 3.1 The Secretariat of the Board must ensure that the Board’s website includes publicly available information on the relevant individual backgrounds of the members of the Board.
- 3.2 The Board must ensure that all Discussion Papers, Reports and other similar publications of the Board:
  - (a) refer readers to the publicly available information on the relevant individual backgrounds of Board members; and
  - (b) include information on the relevant individual backgrounds of members of the relevant working party where it is not otherwise publicly available on the website.

#### **At meetings**

- 3.3 There is to be a standing item on the agenda of each meeting of the Board and of its working parties, prompting Board Members (and members of the Secretariat) to consider and declare conflicts of interest (including potential conflicts of interest) as they arise.

- 3.4 Board and working party members must, having regard to the policy and principles set out in Section 2, promptly declare all known potential or actual conflicts of interest at all Board or working party meetings at which any matter is discussed to which the conflict of interest relates, and the minutes of meetings must include all such declarations.
- 3.5 The Board or working party may, having regard to the policy and principles set out in Section 2, determine how best to manage a declared or identified potential or actual conflict of interest, depending on its nature and extent. This may include requiring that the person who declared, or is identified by the meeting as having, a potential or actual conflict of interest is to refrain from discussion, abstain from voting and/or leave the room for part or all of the discussion.
- 3.6 A person who declares or is identified by the meeting as having a conflict of interest (the **conflicted member**) must abide by the will of the meeting expressed, if necessary, by way of an ordinary resolution of the meeting (excluding the vote of the conflicted member) but may take their own independent advice in respect of the decision of the meeting.

### **Between meetings**

- 3.7 If a member of the Board, or of a Board working party, or of the Board Secretariat, are concerned about the existence, or potential existence, of a conflict of interest in relation to a Board or working party member which has not been declared, the matter must be discussed in confidence with the Chair (or the Deputy Chair where it involves the Chair) and then, by the Chair or the Deputy Chair (as the case may be), with the relevant conflicted (or potentially conflicted) Board or working party member to determine how the matter should best be handled.

## **4. Board Members' Interests Register (applicable to the members of the Board only)**

### **Members' Interests Register**

- 4.1 The Board Secretariat must maintain a Members' Interests Register to record all relevant declared interests of Board Members, including any pecuniary interests which members of the Board are required by the Commonwealth to disclose.
- 4.2 Information contained in the Members' Interests Register will be available to the Board to the extent necessary to give effect to this Policy. Unless necessary to implement the Policy, your personal information will not be shared with other Board members or unless authorised by the Australian Privacy Principles in Schedule 1 to the *Privacy Act 1988*.
- 4.3 Each Board member must:
- (a) promptly after being appointed to the Board;
  - (b) at least annually thereafter; and
  - (c) at any time during their term of office that a new relevant material interest or relationship arises,
- complete a Declaration of Personal Interests, in the form provided by the Secretariat from time to time, notifying all relevant material interests and relationships which give rise to an actual conflict of interest or might reasonably be expected to give rise to a conflict of interest (i.e. a potential conflict of interest) (see paragraph 2.2(b) above for guidance as to what comprises a conflict of interest).

- 4.4 For avoidance of doubt, ex-officio members of the Board are not required to complete a Declaration of Personal Interests under this policy on the basis that they are Australian Public Service (APS) employees under the *Public Service Act 1999* (the **PSA**) and are required to declare conflicts of interest under the PSA.
- 4.4 Each Board member, with the exception of ex-officio members, has an ongoing obligation during their term of office to notify the Secretariat of relevant material interests or relationships, as they arise, where the Board member considers that they may reasonably be expected to result in a conflict of interest. The absence of consent by a third party to disclose their personal or business information that could impact or contribute to a member's conflict of interest will not be accepted as discharging the member's obligation of make a full and complete disclosure of any actual or potential conflict of interest under this clause.
- 4.5 The Secretariat is responsible to keep the Board, through the Chair, informed of all notifications made under this Policy.

## **5. Policy Review**

- 5.1 This Policy must be reviewed and, if appropriate, updated by the Board every 3 years.