

# Governance & Ethics

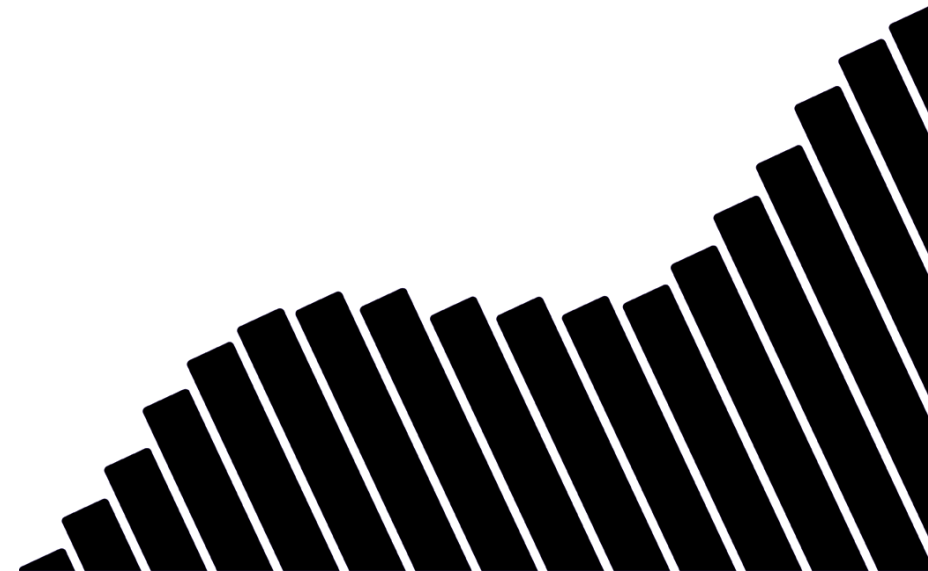
## A Cross Jurisdictional Comparison

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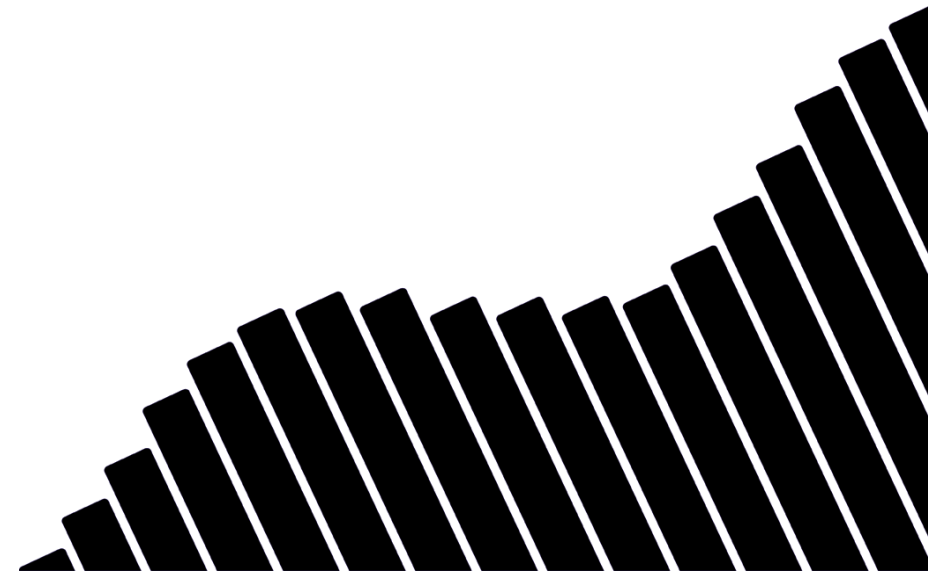


# Key focus areas

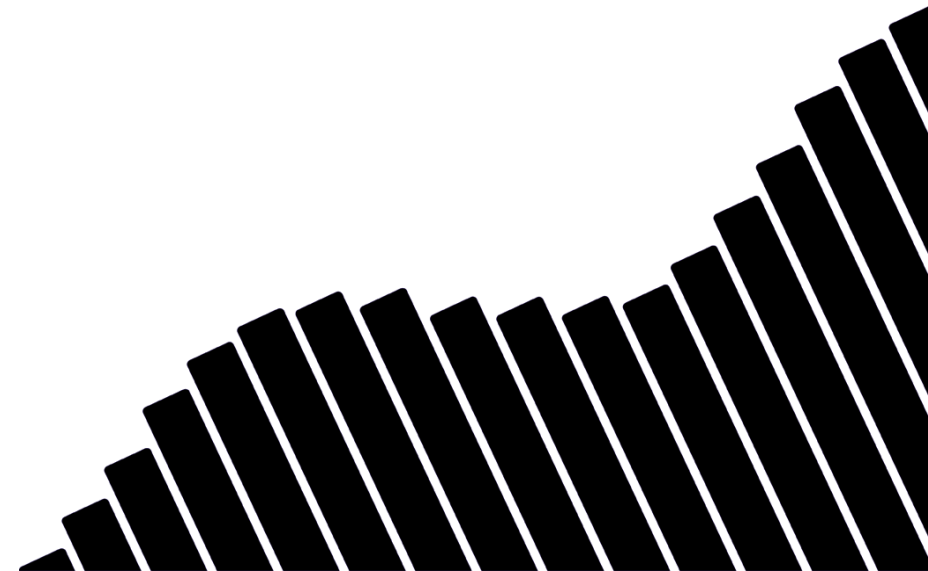


- Reviewing the South African and Australian experiences
  - An overview of the political and operational environment
  - Structure of government regulation
  - Regulation of advisory and compliance services
  - Pathways to registration and ongoing retention of registration
  - Disciplinary process

# Overview of political and operational environment



# The regulatory environment



# The regulatory environment



## Structure of government regulation of the tax profession

South Africa	Australia
Legal Practice Council	Legal Profession Uniform Law
Tax Administration Act 26 of 2011 (TAA)	<i>Tax Agent Services Act 2009 (TASA)*</i>
South African Institute of Taxation	Tax Practitioners Board
South African Revenue Service (SARS)	Australian Taxation Office
(District-based) Law Society SA	(State-based) Law Societies
Recognised Controlling Bodies	Accounting and industry associations
	Bookkeeping associations

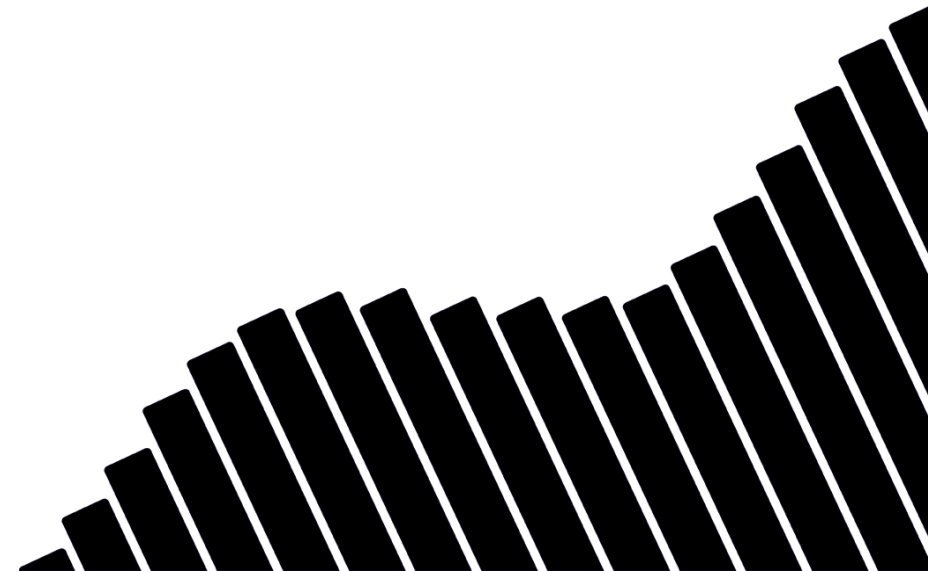
\* Note: the Treasurer will soon have the power to amend the Code of Professional Conduct in the TASA by legislative instrument rather than by way of a law change

# The regulatory environment



- Regulation of tax advisory services
  - SA – lawyers vs registered tax professionals; SARS, Office of the Tax Ombud and SAIT
  - AUS – lawyers vs registered tax agents; State vs Federal
- Regulation of tax compliance services
  - SA – lawyers vs registered tax professionals; SARS, Office of the Tax Ombud and SAIT
  - AUS – lawyers vs registered tax agents, registered BAS agents and tax (financial) advisers

# Registration pathways





# Registration Entry Criteria

South Africa	Australia
Training and registration as a practising attorney/advocate	Training and registration as a practising solicitor
Training and registration as a registered tax practitioner	Training and registration as a registered tax or BAS agent
<ul style="list-style-type: none"><li>• Fit and proper test (including tax compliance and Criminal-free status)</li></ul>	<ul style="list-style-type: none"><li>• Fit and proper person test</li></ul>
<ul style="list-style-type: none"><li>• Qualifications and experience</li></ul>	<ul style="list-style-type: none"><li>• Qualifications and experience</li></ul>
<ul style="list-style-type: none"><li>• Requirement to hold PI insurance (SAIT member benefit)</li></ul>	<ul style="list-style-type: none"><li>• Requirement to hold PI insurance</li></ul>
<ul style="list-style-type: none"><li>• SARS Tax Practitioner Readiness Programme (induction course)</li></ul>	



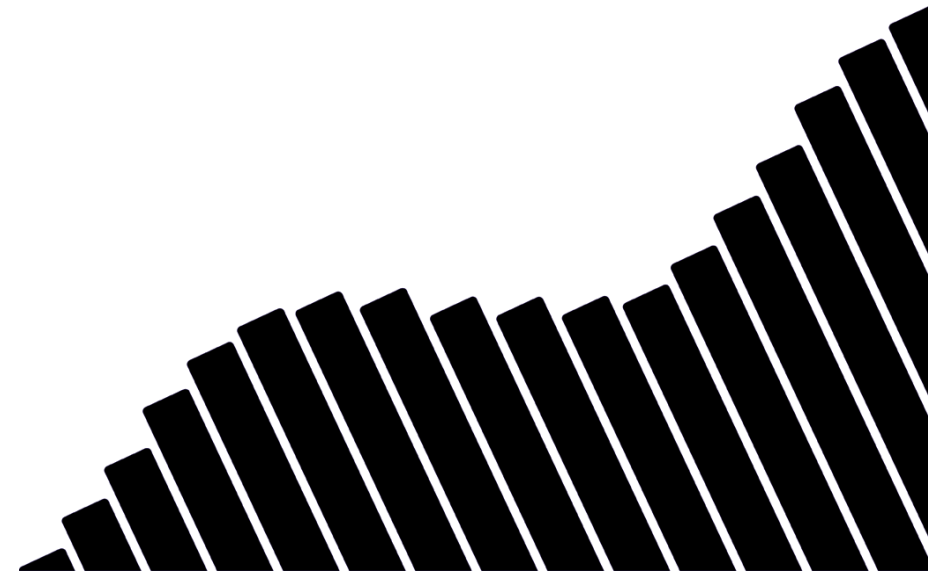
# Registration Retention Criteria



Ongoing retention of tax agent or BAS agent registration

South Africa	Australia
Compliance with the Code of Professional Conduct and Ethics is a SARS and TAA regulation	Requirement to comply with the Code of Professional Conduct in the TASA
Ongoing CPD requirements	Ongoing CPD requirements
Requirement to hold PI insurance	Requirement to hold PI insurance
Requirement to comply with personal tax obligations	Requirement to comply with personal tax obligations
Annual declarations and commitments	Annual declaration

# Dealing with discipline

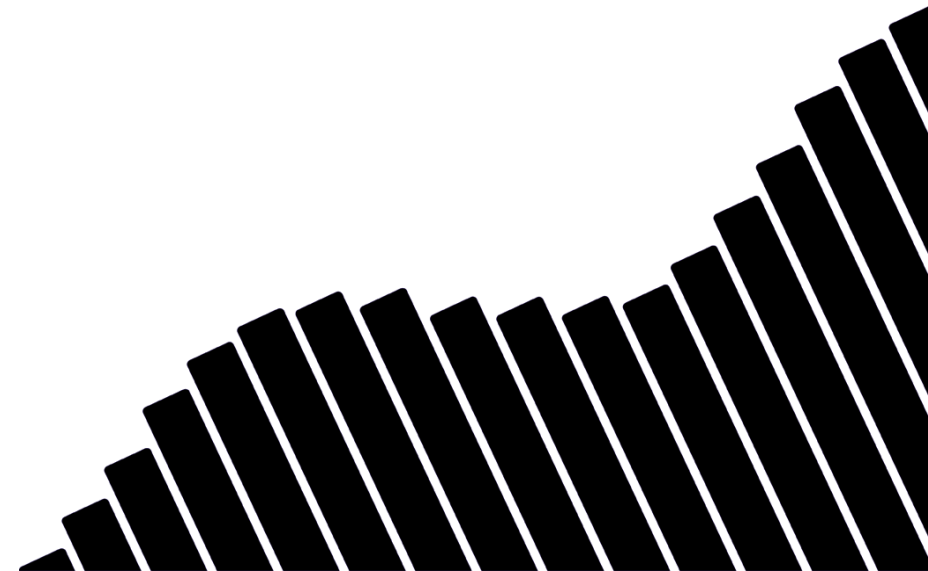


# Dealing with discipline



- South Africa:
  - Disciplinary process (SAIT Disciplinary Board)
    - Authorised to investigate and prosecute registered tax professionals
    - Sanctions and types of misconduct vary
  - Powers of the South African Revenue Service (Investigation, referral to SAIT and deregistration)
- Australia:
  - Powers of the TPB and its processes (now and proposed)
    - Range of sanctions & prosecutions (registered and unregistered persons)
  - Powers of the ATO (refer agents to the TPB, promoter penalty regime etc.)
  - Powers of the Law Societies
  - Powers of the professional associations

**Thank you**



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