



# Important information for bookkeepers providing BAS services

## Who does this information apply to?

If you are a bookkeeper who provides business activity statement (BAS) related services to clients as part of a business, you need to be aware of the legal restrictions regarding who can charge a client for the provision of tax advice.

This information does **not** relate to employees preparing their own employer's activity statements in the course of their normal duties.

**It is an offence to knowingly or recklessly charge a fee for the provision of tax services if you are not a registered tax agent or a person eligible for an exemption. Offenders can be prosecuted and fined up to \$22,000 for a breach of this law.**

## Overview of the legislation

[Section 251L](#) of the *Income Tax Assessment Act 1936* (ITAA 1936) prevents any person from charging or receiving a fee for preparing or assisting a client with any income or fringe benefit tax matters unless they are a registered tax agent.

However, subsection 251L(6) of the ITAA 1936 allows an exemption to this rule for the provision of BAS related services for people who meet the required criteria. For bookkeepers who satisfy the exemption criteria, BAS services include:

1. preparing or lodging an approved form for a client that relates to a goods and services (GST), pay as you go (PAYG) withholding, PAYG instalment, or fringe benefits tax (FBT) instalment obligation
2. giving advice about these obligations, or
3. dealing with the Tax Office on behalf of a client in relation to these obligations.

## The exemption

**Under the exemption, bookkeepers may charge for the provision of BAS services if they are:**

- a. a member of a [recognised professional association](#) (as defined under section 251LA of the ITAA 1936)
- b. [working under the direction](#) of a registered tax agent, or
- c. a payroll services provider preparing a BAS only for PAYG withholding obligations.

There are also some exemptions extended to customs brokers under this subsection.

### a) Recognised professional associations

There are currently seven associations who have indicated that they meet the requirements for a recognised professional association as outlined under [section 251LA of the ITAA 1936](#). They are:

- Association of Chartered Certified Accountants
- Association of Taxation & Management Accountants (ATMA)
- CPA Australia
- Institute of Chartered Accountants in Australia (ICAA)
- National Institute of Accountants (NIA)
- Taxation Institute of Australia (TIA)
- Chartered Institute of Management Accountants (CIMA).

**Note:** This exemption does not extend to student or retired members of these professional associations. Members must be in possession of all the necessary academic qualifications required for membership.

### b) Working under the direction of a registered tax agent

This provision does not necessarily require the bookkeeper to be employed by the registered tax agent. If the bookkeeper is not

an employee, the agent must have appropriate quality assurance procedures in place to ensure they are satisfied with the accuracy and completeness of the bookkeeper's work. This does not mean that the tax agent must review all of the bookkeeper's work.

## Examples

Note: The examples below serve to illustrate common hypothetical circumstances and the extent to which they may or may not amount to a 'BAS service' under subsection 251L(6) of the ITAA 1936. The examples should be read in conjunction with each other in considering their application to any specific factual situation.

(There is also other related Tax Office published material and examples dealing with different aspects of section 251L of the ITAA 1936, such as Taxation Determination TD 2005/16 which deals with the provision of tax advice under paragraph 251L(1)(b) of the ITAA 1936. While these other examples might serve to illustrate quite different issues, they are consistent with and complementary to the examples below.)

## Employees

### Is an employed bookkeeper allowed to prepare a BAS for their employer?

Carole works as an office manager/bookkeeper for a small automotive parts manufacturer.

In the course of her regular duties she prepares her employer's BAS. She is not a registered tax agent or a member of a recognised professional association, and recently she has become aware of restrictions under the legislation on who can and cannot prepare a BAS. Carole is now wondering if she should be doing this work on behalf of her employer.

As Carole is a salaried employee who performs the work as part of her normal duties without charging a separate fee, she is not in breach of section 251L of the ITAA 1936. A BAS prepared by an employee on their employer's behalf as part of his or her regular work is taken to have been self-prepared.

## Members of a recognised professional association

### I'm a member of a recognised professional association and I have a practising certificate. Am I allowed to charge for the preparation of a BAS?

Dave has an accounting degree and runs his own inner city bookkeeping business. He is a fully qualified member of the ICAA and holds a current practising certificate. Many of Dave's business clients have BAS requirements as part of their tax affairs.

Although Dave is not a registered tax agent, as he is a fully qualified member of a [recognised professional association](#), he qualifies for the exemption under subsection 251L(6) of the ITAA 1936 and is allowed to charge for the provision of any BAS services.

## Student members

### Can a student member of a recognised professional association charge a fee for BAS services?

Anna works as a bookkeeper and is in her final year of studying a commerce degree, majoring in accounting and taxation. She is currently a student member of the Tax Institute of Australia. Some of Anna's clients have requested help with their BAS preparation as part of the bookkeeping service.

As Anna is only a student member of the TIA, she has not yet obtained the necessary qualifications to become fully qualified as a member. This means she is **not eligible** to charge a fee for assisting clients with their BAS requirements. It also means Anna **cannot** charge a fee for services that **include** BAS preparation, even if they are bundled with other bookkeeping charges.

## Bookkeepers providing services to registered tax agents

### I provide bookkeeping services to registered tax agents. Can I charge a fee for preparing a BAS?

Liz is a bookkeeper who receives work from two separate registered tax agents on a contract basis. Both agents refer to Liz for their bookkeeping, which she completes and returns to the agents for checking before it is released. Liz would like to expand her range of services to include BAS work, and wonders if this is possible.

Under the law, even though Liz is not an employee of either agent, she can provide and charge for BAS services if they are prepared under the direction of registered agents. In practice, this means that an agent must have in place quality assurance procedures for reviewing Liz's work. This does not mean that the tax agent must check every item of Liz's work.

## Franchise group members

### Does becoming a member of a franchised group legally allow a bookkeeper to prepare a BAS?

Jane has her own business providing a range of services, including bookkeeping, for a number of small business clients in a large country town. To increase the services she has to offer, Jane recently became a member of a bookkeeping franchise group, in the hope that this move will help further build and develop her business.

Jane wants to know if by becoming a member of this group she is now legally permitted to prepare a BAS and charge a fee.

Simply becoming a member of a franchised group doesn't allow Jane to prepare a BAS on behalf of her clients and charge for the service. Jane must still satisfy one of the requirements in order to qualify for the exemption. She must be either:

- a member of a [recognised professional association](#), or
- a bookkeeper [working under the direction of a registered tax agent](#) who has procedures and processes in place to ensure that the work done by the bookkeeper is reviewed for accuracy and completeness of work (note: a bookkeeper can work under the direction of more than one registered tax agent), or
- a payroll services provider preparing a BAS only for PAYG withholding obligations (this includes preparation and lodgment of a notification of a PAYG withholding amount and PAYG payment summaries in respect of these amounts).

## Franchise groups – owners and franchisees

### Assume that the owner/franchisor of a franchised group is an accountant or appropriately qualified person under section 251L of the ITAA 1936. Does this automatically entitle the franchisee to prepare a BAS independently?

Tom has been a member of a well-known bookkeeping franchise in outer metropolitan Sydney for a number of years. He has a good business and works with a number of small to medium manufacturing enterprises in the local area. Tom has so far restricted his involvement with his clients to helping them with bookkeeping and administration.

Recently Tom discovered that the owner of the franchise to which he belongs is in fact an accountant eligible to lodge a BAS under section 251L of the ITAA 1936. Tom now wonders if his membership of the franchise allows him to prepare a BAS independently, on the basis that the franchise owner is qualified to do so.

Under subsection 251L(6) of the ITAA 1936, the member of a professional association **must be the person responsible** for the provision of the BAS services. In a franchise situation, Tom himself needs to be a member of a [recognised professional association](#) or he cannot charge a fee for the provision of BAS services.

If a franchisee is not a member of a recognised professional association, they cannot independently prepare a BAS unless they are [working under the direction of a registered tax agent](#). A franchisee is not permitted to prepare or lodge a BAS for a franchisor who is an accountant but not a registered tax agent. They can work under contract for the franchisor, but the BAS services must be provided by the appropriately qualified accountant.

## Services beyond ordinary bookkeeping

### Beyond ordinary bookkeeping, what BAS-related services can a bookkeeper provide?

George provides bookkeeping services to a number of small business clients. He works by himself and he is not a member of a recognised professional association. Some of his clients have asked him to help them lodge their BAS's using the business portal. George is wondering what services he can offer if he does not meet the requirements of section 251L(6) of the ITAA 1936.

Where the work undertaken by a bookkeeper goes beyond ordinary bookkeeping services, such as advising a client about BAS matters or entering data for the client through the business portal, the bookkeeper will be generally regarded as assisting the taxpayer in substantially the same way as a registered tax agent.

The Tax Office considers that a bookkeeper undertaking such activities would be generally providing a BAS service and acting in

a representational capacity. A bookkeeper can only provide these additional services if he or she is a member of a recognised professional association or is working under the direction of a registered tax agent.

A bookkeeper who does not satisfy these requirements should ensure that clients are aware of the limitation to provide only ordinary bookkeeping services.

## Not charging a separate fee

**If bookkeepers don't charge a separate fee for BAS preparation, are they allowed to prepare a BAS as part of a total bookkeeping service?**

Mary works part time as a bookkeeper from home. Her clients are largely small businesses, including a number of shop owners and self-employed tradespeople.

Mary has been working with these clients to assist them with their record keeping, including helping them to automate their record keeping processes and to use accounting software. Over time, Mary has become more confident in her own ability and is finding her clients and their accountants are coming to her more frequently, seeking a greater variety of services. Mary would now like to move to providing a total bookkeeping service, including BAS assistance.

Mary is now wondering if she does not charge a separate fee for the preparation of a BAS is she able to prepare a BAS as part of a total bookkeeping service.

The answer is **no**, unless Mary [meets the requirements of subsection 251L\(6\) of the ITAA 1936](#). The Tax Office takes the view that the fee for a total bookkeeping service includes a fee for the preparation of a BAS.

## Showing a client how to prepare a BAS

**If bookkeepers don't charge a fee for BAS preparation, are they allowed to show a client how to prepare a BAS as part of a total bookkeeping service?**

Mary is also wondering if she doesn't charge a fee for BAS preparation, is she able to show a client how to prepare a BAS as part of a total bookkeeping service.

The answer again is **no**, unless Mary [meets the requirements of subsection 251L\(6\) of the ITAA 1936](#). Subsection [251L\(7\) of the ITAA 1936](#) defines a BAS service as including giving advice about a BAS provision. The Tax Office takes the view that the fee for this total bookkeeping service includes a fee for providing a BAS service.

## Using commercial accounting software packages

**If a bookkeeper uses commercial accounting software which happens to automatically generate a BAS like report for his client, does this amount to the provision of a BAS service?**

Norm owns a bookkeeping business and has a number of small business clients for whom he provides bookkeeping services.

Norm regularly makes site visits to his clients, where he uses their commercial accounting software to enter and code their list of transactions. At the end of each BAS period, the software usually generates a report that is very similar to the real BAS, which Norm gives to his clients. Norm is always very careful not to complete the BAS documents himself and does not represent to his client that the BAS like report should be used as a basis for completing the Tax Office supplied BAS form.

Although Norm's business does not work under the direction of a registered tax agent and he is not a member of any recognised professional association he has always believed that he was legally able to perform this work. With the recent discussion around BAS preparers Norm is now concerned about how far he can legally carry on his business.

The Tax Office considers that bookkeepers who use commercial accounting software to generate a report for their clients to prepare a BAS are not in breach of section 251L of the ITAA 1936. The generation of this BAS information is an automated feature of the software and purely incidental to the bookkeeping services. As long as Norm does not prepare the actual BAS form, attempt to show his clients how to do so, and does not represent to his client that the BAS like report should be used as a basis for completing the Tax Office supplied BAS form he may legally charge a fee for his bookkeeping services.

## Installing commercial accounting software packages

**If a bookkeeper installs accounting software for a client that is able to produce a BAS like report, does this amount to the provision of a BAS service?**

Barry works as a registered consultant for a major accounting software company. Businesses that purchase the software get his details from the software company as someone to assist them with installing and using their new software packages. Barry does not work under the direction of a registered tax agent, and is not a member of any of the recognised professional associations.

Barry is wondering if he is allowed to install and customise the software as required by the client, including customising tax codes and their reporting on a BAS like report. This report is very similar to the actual Tax Office form and is used by the client to fill in their own Tax Office supplied BAS form.

The Tax Office takes the view that installing and customising commercial accounting software for a client does not amount to the provision of a BAS service under subsection 251L(7) of the ITAA 1936. As with the previous example, the Tax Office considers the BAS information produced to be an automated feature of the software and purely incidental to regular bookkeeping services.

Note however that as Barry does not qualify for any of the exemptions for BAS providers, he must not prepare a BAS form on behalf of any client, or provide any advice about how to do this, or advise them about a BAS provision.

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