

Client engagement letter for individuals

«CreatedDate»

«ClientName»

«PostalAddress»

«PostalCity» «PostalPostCode»

Dear «ContactName»

Thank you for your instructions to attend to the preparation and lodgment of your income tax return.

This letter sets out our **Terms of Engagement** and supersedes any previous engagement letter provided by me. It is important that you read this letter carefully. If you have any queries or wish to discuss any aspect of the engagement, please do not hesitate to contact me.

Tax practitioners are regulated in accordance with the *Tax Agent Services Act 2009 (TASA)* and the accompanying regulations. The Tax Practitioners Board (**TPB**) is responsible for the registration and regulation of tax practitioners and for ensuring their compliance with the TASA. As part of this role, the TPB maintains details of registered, suspended and deregistered tax practitioners. To check that I am registered, search the **TPB Register** at www.tpb.gov.au/public-register using either of the following details:

- Practitioner name – Richard O’Grady
- Registration number – 09420000

An important feature of the taxation laws for clients is the provision of a **‘safe harbour’** from penalties in certain circumstances for taxpayers who engage registered tax agents. To obtain the benefits of safe harbour protection, a taxpayer must give their registered tax agent *“all relevant taxation information”* to enable accurate statements to be provided to the Australian Taxation Office (**ATO**). This requirement may be important in identifying and understanding the purpose and scope of this engagement.

General information about taxpayers’ rights and obligations under the taxation laws (including safe harbour protection) and information about tax practitioners’ obligations to their clients, the ATO and the TPB are set out in the **‘Appendix’** to this engagement letter. This document is provided for information purposes only and should be retained by you for your records.

If my Terms of Engagement are acceptable, I ask that you sign the enclosed copy of the document where indicated and return it to my office.

Please note that I am unable to perform any work for you until I receive the signed copy.

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Terms of engagement

1. Purpose and scope of our engagement

- 1.1 This letter relates to the taxation services described at 1.2 below and sets out the basis and terms of our engagement.
- 1.2 My firm, Aitken O'Grady Chartered Accountants, 09420000, has been engaged to prepare and lodge the Individual Income Tax Return of hereafter referred to as 'You'. Unless otherwise agreed, I will prepare and lodge your annual income tax return on an ongoing basis.
- 1.3 I have set out at 3.1 below, when documentation should be provided to me to allow for the preparation and lodgment of your income tax return by the due date prescribed by the ATO. Before I lodge your tax return, I will forward the document to You for your approval.
- If You are late in providing information to me, I will do my best to meet the time limits, but I will not be responsible for any late lodgment penalties or interest charges that You incur.
- 1.4 In providing this taxation service, I have a duty (under the TASA) to act lawfully in your best interests, and to act honestly and with integrity at all times.

2. Term of the engagement

- 2.1 My engagement commences once You indicate acceptance of the terms by signing and returning this letter and will continue until it is terminated by either party.
- 2.2 You can terminate this engagement at any time by notifying me in writing. I also reserve the right to do so by providing You with 14 days' written notice.

3. Responsibilities and obligations

- 3.1 All information relevant to the preparation and lodgment of your income tax return must be collated and forwarded to my office.

Any rectifying work performed by me because of incorrect or late information is outside the scope of this letter and will be charged to You as an additional service.

- 3.2 In engaging me to provide the above taxation services, it is important to understand that:
- You are responsible for providing all relevant information to me in a timely manner, and for the accuracy and completeness of the information provided;
 - You have obligations under the self-assessment regime to keep full and proper records in order to facilitate the preparation of accurate income tax returns on your behalf;
 - any advice I provide is only an opinion based on my knowledge of your circumstances; and
 - I cannot provide taxation services if I find that information on which those services are to be based includes false or misleading information, or material information is omitted, and You are not prepared to appropriately amend it to provide me with correct and complete information.

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- 3.3 You must have **all source documentation** available to allow me to analyse the income tax implications of any transaction, should I request to see it.

As a matter of course, I will not be looking at, or auditing, these documents. However, You are required to have them available before any claim is made in your income tax return.

Also, in some circumstances, I may request to see source documents if clarification is required or a tax issue is particularly contentious.

- 3.4 You must have the necessary documents to comply with the **substantiation requirements** of the *Income Tax Assessment Act 1997*. I will advise You of the requirements relating to your tax return and of the necessity to obtain acceptable receipts as required by the law.

However, I will not be checking that the substantiation requirements have been met. This means I will not be reviewing, for example, your logbook or any calculations or information provided to us, such as a rental property schedule prepared by You or a property manager.

If You require assistance in completing a logbook or preparing any calculations, or You would like me to review such work, please discuss this with me. This will entail work which is outside the scope of this letter and will be charged as additional services.

- 3.5 By law, registered tax practitioners must **not** (in any capacity) make a statement to (or prepare a statement that they know or ought reasonably to know is likely to be made to) the ATO, the TPB or another Australian government agency, or permit or direct someone else to make or prepare such a statement, that they know or ought reasonably to know is false, incorrect, or misleading in a material particular, or omits any matter or thing without which the statement is misleading in a material respect.

If I become aware that a statement I made or prepared (or permitted or directed another to do so) to the ATO, the TPB or another Australian government agency on your behalf was false, incorrect or misleading in a material particular (including by omission) at the time it was made, I may advise you to take action to correct the false or misleading statement.

If a reasonable period of time after providing this advice, I am not reasonably satisfied that you have corrected the statement (or provided consent for me to correct it) or adequately explained the basis for the statement, I may take further action. In some cases, this may include withdrawing from the engagement and notifying the ATO or TPB about the matter.

4. Ownership of documents

- 4.1 The income tax returns that I am engaged to prepare, together with any original documents given to me by You, shall be your property. Any other documents brought into existence by me, including general working papers and draft documents will remain my property.
- 4.2 In accordance with my statutory obligations under the TASA, I will also retain all records of the tax agent services provided to you. I will retain these records for at least five years after the relevant services have been provided, even if our engagement is terminated.
- 4.3 If my services are terminated (by either party), You agree that I shall be entitled to retain all documents owned by You (including all your tax refund cheques which come into my possession) until payment in full of all my outstanding fees.

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- 4.4 Where copies of any documents released to You are required for my records, You will be charged for the cost of photocopying at my normal rates.

5. Fees, disbursements and trust monies

- 5.1 My services will be provided to You on a fee-for-service basis. In addition to my professional fees, You will be responsible for payment of expenses which I incur on your behalf.

However, the fee for this service does not cover any inquiries made to me, or investigations involving me, conducted by the ATO. Substantial penalties can apply for an incorrectly prepared income tax return.

- 5.2 Unless otherwise stated in writing, any estimates which I provide to You of my anticipated fees, disbursements and charges for any work are only indicative of the amounts You can expect to be charged. Estimates are not quotes or caps and are not binding on me.

Where an estimate is given and the scope of the work changes, or if it becomes apparent that the work involves matters that were not taken into account in the estimate, I will advise You and provide an amended estimate as soon as it is practicable to do so.

- 5.3 Unless otherwise agreed, my invoices will be issued upon completion of work and are payable within 14 days.

6. Additional services

- 6.1 My fee applies only to the taxation services provided within the scope of my engagement, being the preparation and lodgement of your tax return each year. This fee includes checking and forwarding original assessments and payment notices received from the ATO.

- 6.2 Any additional services or advice (for example, tax planning advice) that You request are outside the scope of this letter and are not included in this agreed fee. I will separately advise You of the fee for these services, including any direct out-of-pocket expenses.

Please note that any correspondence from the ATO that does not relate to initial assessments or original payment notices may be charged as additional services.

7. Complaints and dispute resolution

- 7.1 If You have any complaints or disputes in relation to this engagement, I ask that You please contact Richard O'Grady on 02 8969 8680 in the first instance. I will endeavour to resolve any issues respectfully and as quickly as possible.

If I cannot resolve the issue or you are not satisfied with how I have handled your complaint or with the outcome, you may be able to escalate the matter to the TPB. Complaints to the TPB must be made in writing using its online form, which is available at myprofile.tpb.gov.au/complaints/

If your complaint is about fees, you may be asked to contact Consumer Affairs or the Office of Fair Trading in your State or Territory. However, the TPB may be able to assist if the fee complaint is associated with inappropriate conduct by me. Details about making complaints to the TPB are available at www.tpb.gov.au/complaints

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8. Confidentiality

8.1 I have an ethical duty and a legal responsibility to keep information acquired as a result of this engagement confidential. This means that I will not disclose confidential information relating to You without your permission, unless there is a legal duty for me to do so.

I will also not use any such information for my own personal advantage or for the advantage of a third party.

8.2 From time to time, I may need to disclose information relating to your affairs to certain parties including, for example:

- a professional or regulatory body in response to an inquiry or investigation;
- the relevant parties (e.g., the TPB) to comply with technical and professional standards (including ethical requirements);
- a professional body of which I am a member, in relation to a quality review program undertaken by that body; or
- relevant parties in order to protect my professional interests in legal proceedings.

You hereby authorise me to do so when I consider it appropriate to further my performance of work for You, or when requested by the relevant party.

9. Use of third-party service providers

9.1 I may use third parties (including Cloud computing providers) to perform services I am engaged to provide to You. The following is a list of third-party service providers currently used by me, to whom your information may be disclosed:

- Xero
- Class Super
- FYI Document Manager

I will notify You of any change to this list from time to time.

9.2 You hereby authorise me to disclose information relating to your affairs to such third parties, whom I engage to assist me.

9.3 Where I outsource services to third-party providers, I am responsible for their conduct and activities and for the delivery of the services that I am engaged to perform for You.

10. Non-compliance with Laws and Regulations (NOCLAR)

10.1 During the performance of my work under this engagement, I may detect conduct or a transaction that is considered to constitute NOCLAR, which has a material effect on any documents or information that might be required to be provided to a regulatory authority, such as the ATO.

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If I detect any NOCLAR, I may have a professional requirement to make a disclosure to a regulatory authority. I will follow a formal process which will include advising You of my concerns and, if necessary, seeking legal advice.

- 10.2 If I do seek legal advice in relation to any NOCLAR, I reserve the right to ask You to pay or reimburse me for our reasonable costs.
- 10.3 If I am required to make such a disclosure, You agree to forever release me from any claim for costs or losses You incur in responding to or dealing with anything arising from my disclosure.

11. Losses from unauthorised cyber activity

- 11.1 I will take all reasonable precautions to ensure that any electronic data that contains your private information is securely stored and that any email transmissions are protected and are not able to be intercepted by third parties.

However, I cannot be held liable for any loss that You might incur as a consequence of any third-party intervention that accesses, procures or copies any data that contains your private information from any medium or device I use to store or transmit such information.

- 11.2 In the event that, despite having taken reasonable precautions to securely store your private information, You suffer any losses arising from unauthorised cyber activity, You agree to forever release me from any claim for your losses.

12. Conflicts of interest

- 12.1 I will inform you if I become aware of any conflict of interest in my relationship with you or in my relationship with you and another client of me.
- 12.2 Where conflicts are identified which cannot be managed in a way that protects your interests, then I may be unable to continue with the engagement. If this arises, I will inform you promptly.

13. Professional indemnity insurance

- 13.1 I confirm that I maintain adequate professional indemnity insurance cover and that our policy complies with the minimum requirements of the Tax Practitioners Board (TPB).

14. Limitation of liability

- 14.1 My liability may be limited by a scheme approved under Professional Standards legislation and applicable regulations of the Professional Body.

15. Authority for ATO digital communication preferences

- 15.1 You agree to have the following types of ATO communication sent digitally to me, as your registered tax agent, on your behalf
- Income tax.
 - Superannuation.

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- Study and training support loans.
- Activity statement-related.
- Debt.

15.2 You hereby authorise me to change or withdraw my preferred address for service of ATO communications. You also declare that the information supplied by You, for the setting or updating of these communication preferences, is true and correct.

16. Other prescribed events and matters to be aware of

16.1 I am required to advise if certain prescribed events have occurred within the last five years (but not before 1 July 2022). This will enable you to make a fully informed decision on whether to engage or re-engage Aitken O'Grady to provide tax agent services.

(a) I advise there are currently no matters that I am required to report to you.

16.2 I am also required to advise whether the tax or BAS agent registration of Aitken O'Grady is subject to any conditions.

(a) There are no conditions attached to my registration.

Confirmation of engagement

I ask that You consider all aspects of this letter to ensure that You are satisfied with the scope of my engagement. Please contact me if You have any queries about this letter.

Once You are satisfied with the terms of this letter, please print, sign and date two copies of this letter in the place indicated. One copy should be forwarded to me as evidence of your acceptance of the terms of my engagement. You should retain the other copy as your evidence of our engagement.

I note again that I am unable to perform any work for You until I receive the signed letter.

I thank You for the opportunity to provide taxation services to You and I look forward to developing a close relationship with You for many years to come.

Yours sincerely,

AITKEN O'GRADY

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Acknowledgment of terms of engagement

I confirm that I have read, understood and agree to the terms of this engagement.

I also confirm that I have read and understood my rights and obligations under the tax laws, as set out in the document, *Clients' rights and obligations under the taxation laws*, provided to me with this letter.

Dated the _____ day of _____, 20_____.

| Name | Signed |
|------------------------------------|------------------------------------|
| <i>[insert name of individual]</i> | <i>(Individual signs)</i> |

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Appendix – Rights and Obligations of the Parties under the Taxation Laws

Dear Client,

As a client or prospective client of this practice, I am required to advise you of your rights and obligations under the taxation laws in relation to the tax agent services I provide to you.

It is also important that you understand my obligations as a tax agent, including to you, under the taxation laws (including the *Tax Agent Services Act 2009 (TASA)* and the Code of Professional Conduct contained within that Act) and your obligations to me.

Your rights and obligations under the taxation laws

Set out below is information on the main areas of the taxation system as it applies to taxpayers generally. Not all these matters will apply to your tax affairs. If you have any concerns or issues with any of the matters discussed below, please feel free to contact me.

Operation of the self-assessment system

Australia's tax system operates on a self-assessment basis. This means that when your income tax return is lodged, the Australian Taxation Office (**ATO**) accepts the information provided in the return at face value and issues you with an assessment notice based on that information.

However, this does not mean the assessment is final as the ATO can conduct a review or audit of the information provided in the return at a later time, subject to the time limits discussed below.

Importantly, as a taxpayer, you have an obligation to comply with the taxation laws. If you do not meet your obligations under the taxation laws, the ATO may impose administrative penalties (fines), apply interest charges, seek criminal prosecutions (in some cases) or initiate debt recovery.

Commissioner's ability to amend an assessment

While the ATO accepts the information lodged in your return at face value, it can amend the assessment if the ATO finds it to be incorrect.

For most individuals not carrying on a business, the ATO can amend an assessment within **two years** after the individual receives their notice of assessment.

If the ATO amends an assessment, this will potentially involve increased taxes, penalties and an interest charge. If you discover an error in the information declared in the return, lower penalties generally apply for making a voluntary disclosure.

Note that there are no time limits on the ATO amending an assessment where it believes there has been fraud or evasion.

Obligation to keep records

The tax laws specifically require taxpayers to keep records that properly explain the transactions they have entered into.

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Individuals claiming deductions for work-related expenses are subject to the substantiation rules in the tax laws. These require taxpayers to keep receipts, invoices etc., of the expenses they incur.

Where the expenses relate to a taxpayer travelling interstate or overseas, a travel diary may also need to be kept. Where the expense relates to a motor vehicle, a record of the journeys taken such as a logbook may need to be kept.

A failure to keep the appropriate records can lead to the ATO denying a particular deduction which may involve the imposition of penalties and interest. Substantiation records must be retained for five years.

Obligation to provide complete and accurate records

For my practice to be able to lodge returns on your behalf, it is your responsibility to provide me with truthful, complete and accurate records. Furthermore, in order to lodge your return on time, I will require you to provide us with the relevant information as and when requested.

Where you are unable to provide us with complete and accurate records, I may be unable to prepare and lodge your return. Tax agents are subject to a Code of Professional Conduct contained in the TASA, which prevents me from acting for a client where insufficient records or information exist that allow me to determine the amount of a client's income or deductions.

I also reserve the right to question any claims for deductions or credits that in my reasonable judgment might be considered as being excessive, and I may ask for more substantiation or records to prove that such a claim is allowable under the law.

If I believe that a claim is excessive and it cannot be substantiated, I reserve the right not to include such a claim in your income tax returns, but you will have the right to lodge an objection after receiving your notice of assessment. There may be further costs in doing so, and I will advise you accordingly.

Records for clients operating in the cash economy

Employees who are paid cash in hand may be at risk of (amongst other things) being underpaid, or of their employers not withholding the correct amount of tax from their pay and remitting this to the ATO. This is particularly the case if their employer is operating in the cash economy (essentially, outside the income tax system).

Furthermore, if the ATO considers a taxpayer has not declared all of their wages in their tax return, and they have inadequate documentation to demonstrate their earnings, the ATO may assess the taxpayer for additional income tax (plus penalties and interest). If this occurs, it is the responsibility of the taxpayer to demonstrate that the assessment is excessive (i.e., the taxpayer did not earn that much income) and identify their correct tax position.

Therefore, employees who are paid in cash are urged to have a robust and reliable system for recording their earnings. Please contact us if you need assistance with this.

Right to seek a Private Binding Ruling

When preparing your return, I may identify one or more issues that are not clear under the tax laws. Where I have pointed out such issues to you, you have a right to request a Private Binding Ruling from the ATO.

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The ATO will provide you with a ruling setting out its view on the proper tax treatment of the issue requested in the Private Binding Ruling.

Objecting against an assessment

If the ATO issues you with an assessment that you do not agree with, you have the right to lodge an objection against that assessment, generally within two years from the time the original assessment was received.

Where the ATO issues an amended assessment, the period for objecting is generally the greater of 60 days from the time the amended assessment is received and two years from the time the original assessment was received.

If you remain dissatisfied with the outcome of the objection, you have the right to have the matter reviewed by the Administrative Review Tribunal or appeal the matter to the Federal Court.

Onus of proof falls on the taxpayer

It is important to be aware that in any disputed assessment before the court or the Administrative Review Tribunal (whether initiated by the taxpayer or by the ATO), the onus of proof is placed on the taxpayer.

In other words, if the Commissioner asserts that your income should include a certain amount or that a deduction claimed in a return is not allowed, it will be up to you to establish that the Commissioner's view is incorrect and the correct treatment.

Safe harbour protection

As the client of a registered tax agent, under the taxation laws, you have a statutory 'safe harbour' exemption from penalties imposed by the ATO in certain circumstances.

To ensure you are eligible to benefit from the safe harbour, it is a requirement that you provide me with all relevant tax information. This includes any records, or documents I request from you plus any other information relevant to the preparation of your tax return. The information provided must be truthful, complete and accurate. It is equally important that you provide me with this information by the time it is requested to allow the return to be lodged by its due date.

A taxpayer who is eligible for safe harbour protection will not be subject to any penalties for errors identified in their tax return, although the tax and interest charges will still apply.

Your tax practitioner's obligations

The TASA, including the Code of Professional Conduct (**Code**) contained within the TASA, provide statutory protections for taxpayers who engage registered tax practitioners. The Code is a set of statutory ethical and professional standards that registered tax practitioners must comply with.

The TASA, including the Code and associated regulations and determinations are administered by the Tax Practitioners Board ('TPB').

I am required to provide you with general information about the obligations that tax practitioners have to their clients under the taxation laws, including the TASA and the Code. The following information has been adapted from the TPB's factsheet, [Information for Clients](#) for these purposes.

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Your tax practitioner's obligations require them to:

- act lawfully in your best interests and with honesty and integrity in the performance of our duties ;
- uphold and promote the ethical standards of the profession;
- manage any conflicts of interest;
- take reasonable care to ascertain your state of affairs and apply tax laws correctly;
- keep your information confidential unless there is a legal duty to disclose;
- provide services competently;
- not knowingly obstruct the administration of the tax laws;
- advise you of your rights and obligations under the taxation laws (refer above);
- account to you for money or other property on trust;
- not make false or misleading statements to the TPB or the ATO, and in some cases, withdraw our engagement with you and notify the TPB or ATO of certain matters;
- address any false or misleading statements we are responsible for;
- engage with clients to address other false or misleading statements, exploring options to correct;
- keep proper records (including records of tax agent services provided);
- keep you informed of certain matters so you can make informed decisions.

If your registered tax practitioner fails to meet their obligations:

- their registration can be suspended or terminated, meaning they cannot practice;
- they could receive a caution or orders from the TPB – for example, undertaking education or working under the supervision of another registered tax practitioner;
- have fines imposed on them by the Federal Court;
- your tax and superannuation matters may not be accurate;
- you may be subject to enquiries or audits;
- any tax shortfalls may attract penalties and interest;
- you may have litigation options to review decisions and recover debts;
- in the case of fraud or criminality, penalties may lead to prosecutions.