

# Terms of Engagement – Business Advisory and Taxation

## PERIOD OF ENGAGEMENT

This engagement will start as soon as you communicate your acceptance of the terms of this letter.

You may terminate this Agreement in writing at any time. If you do so you will pay our charges and expenses incurred up to the time of termination.

## PRIVACY ACT

We may collect Personal Information about your representatives, your clients and others when we provide services to you. If we do, you agree to work with us to ensure that we both meet the obligations that we each may have under the Privacy Act 1988 (Cth) (as amended) (Privacy Act). The obligations may include notifying the relevant person to whom the personal information relates who we are and how their personal information may be used. Where you have collected personal information, you confirm that you have collected the personal information in accordance with the Privacy Act, that you are entitled to provide this personal information to us and that we may use and disclose the personal information for the purpose(s) we provide our services to you.

We will handle personal information in accordance with our Privacy Policy and the Privacy Act. A copy of our Privacy Policy is available on our website at [www.sifs.com.au](http://www.sifs.com.au)

## RESPONSIBILITIES & REVIEW

In conducting this engagement, information acquired by us in the course of the engagement, including information relating to your affairs whether it belongs to you or not or is provided by you or not, is subject to strict confidentiality requirements. That information will not be disclosed by us to other parties except as required or allowed for by law, or with your expressed consent.

Our files may be subject to review as part of the quality control review program of the Chartered Accountants Australia and New Zealand, which monitors compliance with professional standards by its members. We advise you that by accepting our engagement you acknowledge that, if requested, our files relating to this engagement will be made available under this program. Should this occur, we will advise you.

## ELECTRONIC COMMUNICATION

We are able to communicate electronically with you and other parties both via the internet and using electronic storage devices. If we communicate electronically with or for you, you release us from all claims, losses, expenses and liabilities caused by any risk that may arise directly or indirectly out of that communication to the extent allowable by law.

More specifically we will not be liable for any corruption, interception, late or incomplete delivery, loss, misdirection or unauthorised use of an electronic communication nor for any damage (including where caused by a computer virus) arising from its use. It is your responsibility to establish your own protection against viruses and other damage.

## OWNERSHIP OF DOCUMENTS

All original documents obtained from you arising from this engagement will remain your property. However, we reserve the right to make any reasonable number of copies for our records.

Our engagement may result in the production of Financial Statements, Income Tax Returns and other documents or files (in either electronic or printed version) which will be supplied to you. Ownership of these documents will vest in you. All other documents produced by us in respect of this engagement will remain our property.

We will exercise a legal right of lien over any of your documents in our possession in the event of a dispute between us.

Your records may be destroyed after seven years from the date of our final invoice. If you wish for these to be retained for a longer period, you will need to send us a request in writing, although this will remain our discretion.

## OUTSOURCED SERVICES & STORAGE OF PERSONAL INFORMATION

From time to time, we may engage third party contractors or outsourced service providers might be involved in providing some aspects of your accounting work.

Acceptance of our services in conjunction with terms indicates your acceptance of the use of such outsourced services. Where the outsourced service requires that the disclosure of personal information, a consequence of your consent it that we will be required to take reasonable care to ensure that Australian Privacy Principles are complied with by the recipients of the Personal Information.

## YOUR DISCLOSURE AND RECORD KEEPING OBLIGATIONS

You are required by law to keep full and accurate records relating to your tax affairs in order to facilitate the preparation of accurate tax returns. The responsibility for the accuracy and completeness of the particulars and information provided to us rests with you.

Any advice given to you by us is only an opinion based on our knowledge of your particular circumstances. It is your obligation to provide us with all information that you reasonably expect will be necessary to allow us to perform work specified under this engagement within a timely manner or as requested. This includes providing accurate and complete responses to questions asked of you by us within 5 working days (unless otherwise stated or agreed). Inaccurate, incomplete or late information could have a material effect on our services and/or our conclusions and may result in additional fees.

You are also required to advise us on a timely basis if there are any changes to your circumstances that may be relevant to the performance of our services. Specifically, if any subsequent event results in the information you provided to us being inaccurate, incomplete or misleading, then you are obliged to advise us as soon as possible. We take no responsibility to the extent that our advice is inaccurate, incomplete or misleading because it is based on inaccurate, incomplete or misleading information being provided to us.

By accepting the terms in this Agreement, you will be taken to have agreed that the performance of our services is dependent on the performance of your obligations relating to disclosure and record keeping. You are responsible for the reliability, accuracy and completeness of the accounting records and disclosure to us of all material and relevant information.

The *Taxation Administration Act 1953* contains specific provisions that may provide you with "safe harbours" from administrative penalties for incorrect or late lodgement of returns if, amongst other things, you give us "all relevant taxation information" in a timely manner. Accordingly, it is to your advantage that all relevant information is disclosed to us as any failure by you to provide this information may affect your ability to rely on the "safe harbour" provisions and will be taken into account in determining the extent to which we have discharged our obligations to you.

Please note that if you do not provide us your financial information properly reconciled and in a format agreed between you and us, the cost of our services may be higher.

In relation to your financial records, you will be specifically responsible for retaining copies of all financial records and source documents for a period as prescribed under legislation.

## CONFLICT OF INTEREST

You are required to advise us if you become aware of any conflict of interest or potential conflict of interest. Generally, a conflict of interest is any event which may result in us becoming unable to remain objective in the performance of our services to you. Some examples of events which could give rise to a conflict of interest or potential conflict of interest during this engagement are changes to your business circumstances, events affecting your family (e.g. death and/or marriage breakdown) or a legal action commencing against you.

## YOUR RIGHTS AND OBLIGATIONS UNDER THE TAXATION LAWS

You have certain rights under the taxation laws, including the right to seek a private ruling from the Australian Taxation Office (ATO) or to appeal or object against a decision made by the Commissioner. As relevant, we will provide further information to you concerning your rights under the Australian taxation laws while we provide our service to you.

You also have certain obligations under the Australian taxation laws, such as the obligation to keep proper records and the obligation to lodge returns by the due date.

In engaging us to provide taxation services, it is important for you to understand that:

- You are responsible for the accuracy and completeness of the particulars and information you provide to us
- Any advice we provide is only an opinion based on our knowledge of your particular circumstances
- You have obligations under the self-assessment regime to keep full and proper records in order to facilitate the preparation of accurate returns.

Before we lodge any return on your behalf, we will forward the documents to you for approval.

We will endeavour to ensure that the returns are lodged by the due date and will advise you in advance when documentation should be provided to us. If you are late in providing information, we will do our best to meet the deadlines, however we will not be responsible for any late lodgement penalties or interest charges you may incur as a result.

#### **OUR OBLIGATION TO COMPLY WITH THE LAW**

We have a duty to act in your best interests. However, this duty is subject to an overriding obligation to comply with the law even if that may require us to act in a manner that may be contrary to your interests. For example, we could not lodge an Income Tax Return for you that we knew to be false in a material respect.

In particular, the Tax Agent Services Act 2009 (TASA) and complementary amendments provide statutory protections for taxpayers who engage registered tax agents. As your tax agent we are bound by a statutory Code of Conduct which is administered by a new Tax Practitioners Board that requires us amongst other things, to act lawfully in your best interest and with honesty and integrity in the performance of our duties.

Our advice and/or services will be based on Australian Taxation Laws in force at the date of the provision of the advice and/or services. It is your responsibility to seek updated advice if you intend to rely on our advice at a later stage. We note that Australian Taxation Laws are often subject to frequent change and our advice will not be updated unless specifically requested by you at the time of the change in law or announced change in law.

We also have an obligation to ensure that we manage conflicts of interest as they arise and have arrangements in place to ensure that we manage potential or actual conflicts of interest. The effective operations of these arrangements depend, in part, on you complying with your obligation to disclose any potential conflicts of interest to us (as mentioned previously).

#### **THE SELF-ASSESSMENT SYSTEM**

The Australian tax system operates as a self-assessment system. This means that when your tax return, FBT return or BAS is lodged, the ATO accepts the information in the return at face-value and issues you with an assessment notice based on that information. It is important to understand that 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 listed below.

##### ***The Commissioner's ability to amend an assessment***

The ATO has the power to amend the assessment if they find it to be incorrect.

The ATO can amend an assessment within 2 years after their assessment. If the taxpayer carries on a business and is not a Small Business Entity, that period extends to 4 years. If the taxpayer is a partner in a partnership or a beneficiary of a trust, the period is 2 years. If the partnership or trust carries on business and is not a Small Business Entity, the period extends to 4 years. In any other cases, the period is 4 years.

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

Note: There are no time limits on the ATO amending an assessment where they believe there has been fraud or evasion.

##### ***Records for clients operating in the cash economy***

There are particular recording imperatives for clients who operate in the cash economy. In particular, the ATO has a program of "benchmarking" standardised revenue returns for a wide range of cash businesses. In circumstances where it is dissatisfied with a taxpayer's records or recording systems, the ATO will often assess income tax and/or GST on what it considers to be an appropriate "benchmark" amount (plus penalties and interest) and then put the taxpayer to the task of disproving that assessment. Where that occurs, the taxpayer is at a serious disadvantage and can be put to a great deal of cost and effort in disputing the assessment.

Taxpayers who operate in the cash economy are therefore urged to have a robust and reliable system for recording and reporting all cash transactions and to ensure that the recorded figures are accurate.

#### ***Right to seek a Private Binding Ruling***

When preparing your tax return we may identify one or more issues that are not clear under the tax laws. Where we have pointed out such issues to you, you have a right to request a Private Ruling from the ATO. Upon providing the ATO with all the relevant facts, they will provide you with a ruling setting out their view on the proper tax treatment of the particular issue requested to be ruled upon.

#### ***Objecting to an assessment***

If the ATO issues you with an assessment that you do not agree with, you have the right to lodge an objection to that assessment. The objection must be lodged with the ATO within either 2 or 4 years discussed above under the heading 'Commissioner's ability to amend an assessment'.

Where the ATO issues an amended assessment, the period for objecting is the greater of:

- 60 days from the time the amended assessment is received; or
- 2 or 4 years (whichever is applicable) 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 Appeals Tribunal or to appeal the matter to the Federal Court.

#### ***Onus of proof falls on the taxpayer***

For any disputed assessment before the court or the Administrative Appeals Tribunal, 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.

#### **LIMITATION OF LIABILITY**

Our liability is limited by a scheme approved under Professional Standards Legislation. Further information on the scheme is available from the Professional Standards Council's website: <http://www.psc.gov.au>

#### **INVOLVEMENT OF OTHERS & DISBURSEMENTS**

Where, as part of this engagement, the services of an external consultant or expert are required, an estimated cost, timeframe and involvement will be provided for your approval.

It may also be necessary to incur other fees, expenses and charges. These out-of-pocket expenses and other charges we incur on your behalf are referred to as disbursements.

We will charge you at cost for any disbursements we incur on your behalf. You must reimburse us these disbursements including GST (Goods and Services Tax), when they fall due for payment.

We will not incur any substantial expense without first obtaining your permission.

#### **PAYMENT TERMS**

Subject to the FEES section of our engagement letter, our charges are based on the time required by us plus disbursements (where applicable). Individual hourly rates vary according to the degree of responsibility involved and the experience and skill required.

In the event of you being in default of your obligation to pay us by the due date listed in our invoice(s), any overdue invoice(s) may be referred to a debt collection agency at our discretion. You agree that in this event, you will be liable to pay as a liquidated debt to us any commission, disbursements and legal fees payable by us.

Unless agreed otherwise, our payment terms are generally 21 days from issue date of Invoice (or as stated on our invoice).

If the amount payable on the Invoice is not paid within 30 days of the date of that Invoice, we may apply interest at a rate not exceeding the Cash Rate Target, as fixed by the Reserve Bank of Australia, plus 2 per cent, calculated from the date the invoice is issued.

If you wish to discuss the above Terms of Engagement, please contact us on (03 9574 8300 or alternatively at [hello@sifs.com.au](mailto:hello@sifs.com.au).