



Australian Government

FNSTPB507 Apply legal principles in commercial law when providing tax (financial) advice services

Release: 1

FNSTPB507 Apply legal principles in commercial law when providing tax (financial) advice services

Modification History

Release	Comments
Release 1	This version first released with FNS Financial Services Training Package Version 1.0.

Application

This unit describes the skills and knowledge required to research, identify and analyse commercial law principles and apply relevant principles to particular clients and their circumstances.

It applies to individuals who provide tax (financial) advice services as defined in the Tax Agent Services Act 2009. Individuals providing such services are generally required to be registered tax (financial) advisers.

Work functions in the occupational areas where this unit may be used are subject to regulatory requirements. This unit is designed to meet educational requirements of the Tax Practitioners Board (TPB). Refer to the FNS Implementation Guide Companion Volume or the relevant regulator for specific guidance on requirements.

Unit Sector

Tax practice

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
<i>Elements describe the essential outcomes.</i>	<i>Performance criteria describe the performance needed to demonstrate achievement of the element.</i>
1. Research commercial law principles	1.1 Identify client circumstances and tax (financial) advice services relevant to commercial law matters 1.2 Identify sources of commercial law information appropriate to client circumstances and the tax (financial) advice services requirements 1.3 Research commercial law principles regarding different business structures, contract law and law of torts relevant to the client's

ELEMENT	PERFORMANCE CRITERIA
	circumstances and the tax (financial) advice services being provided
2. Explain commercial law principles and adviser's scope of authority	2.1 Identify commercial law principles that apply to the client's circumstances and tax (financial) advice services 2.2 Explain the scope and authority of advice to the client 2.3 Explain to the client, within scope of authority, the commercial law principles applicable to their circumstances and the tax (financial) advice services being provided 2.4 Advise the client to seek independent legal or specialist advice as required
3 Explain implications of the commercial law principles	3.1 Analyse the implications of commercial law principles that apply to the client's circumstances and tax (financial) advice services 3.2 Explain to the client, within scope of authority, the implications of the commercial law principles applicable to their circumstances and the tax (financial) advice services provided
4. Maintain knowledge of commercial law principles	4.1 Review client's circumstances, including any of their business structures and contractual arrangements, and apply changes in relevant principles of commercial law as necessary 4.2 Access and use systems for maintaining up-to-date knowledge about relevant legal principles of commercial law 4.3 Review relevant legal sources regularly and apply any changes in daily work

Foundation Skills

This section describes language, literacy, numeracy and employment skills incorporated in the performance criteria that are required for competent performance.

Skill	Performance Criteria	Description
Learning	4.2, 4.3	Identifies and implements strategies to manage gaps in personal knowledge
Reading	1.2, 1.3, 2.1, 3.1, 4.1	Accesses, comprehends, assesses and interprets complex documents with a high level of technical detail
Oral Communication	2.2, 2.3, 2.4, 3.2	- Presents information choosing language appropriate to audience - Asks questions and listens to responses from clients

		and others using appropriate vocabulary and non-verbal features
Navigate the world of work	2.1, 2.2, 2.3	Accepts responsibility for providing advice according to requirements of own role and relevant legislation
Interact with others	2.2, 2.3, 2.4, 3.2	- Uses a range of strategies to establish connection and build rapport with client - Selects and uses appropriate conventions and protocols when liaising or sharing information with clients
Get the work done	1.1, 1.2, 1.3, 4.1, 4.2, 4.3	- Plans, organises and implements tasks aiming to provide accurate information to the clients - Applies systematic and analytical processes to decide on most appropriate advice for clients in complex and non-routine situations - Uses the main features and functions of digital tools to complete work tasks and to access information

Unit Mapping Information

Code and title current version	Code and title previous version	Comments	Equivalence status
FNSTPB507 Apply commercial law requirements when providing tax (financial) advice services	Not applicable	New unit	No equivalent unit

Links

Companion Volume implementation guides are found in VETNet - <https://vetnet.gov.au/Pages/TrainingDocs.aspx?q=c7200cc8-0566-4f04-b76f-e89fd6f102fe>

Assessment Requirements for FNSTPB507 Apply legal principles in commercial law when providing tax (financial) advice services

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Performance Evidence

Evidence of the ability to:

- research, analyse and apply current commercial law principles relevant to the client's circumstances and the tax (financial) advice services being provided
- identify the client's circumstances and the tax (financial) advice services requiring independent legal or other specialist advice
- present commercial law principles and implications to clients, relevant to the their circumstances and the tax (financial) advice services
- access and use systems and relevant legal sources to maintain knowledge on commercial law principles.

Note: If a specific volume or frequency is not stated, then evidence must be provided at least once.

Knowledge Evidence

To complete the unit requirements safely and effectively, the individual must:

- explain the operation of the Australian legal systems and processes relevant to areas of commercial law including:
 - basic principles, current statute, common law and equitable principles
 - roles and responsibilities of key organisations
 - separation of powers
 - basic principles of contract law
 - basic principles of the law of torts, particularly relating to negligence and negligent misstatement
 - courts and regulatory bodies
 - requirements and processes for clients who need specialised legal advice in commercial law matters

- explain how laws are enacted and their underlying policy aims, and how those laws may be interpreted by existing common law and equitable rules
- examine legal concepts and scope of contract law with reference to:
 - formation – agreement and intention to create legal relations
 - formation – consideration, form, legality and capacity
 - contents – express terms, exclusion clauses
 - contents – implied terms, common law and statute (Commonwealth, State or Territory competition and consumer legislation)
 - vitiating elements – unconscionability, misrepresentation, capacity
 - discharge – remedies, including damages, rescission for unconscionable conduct
 - agency
- describe legal concepts and scope of consumer law:
 - misleading and deceptive conduct
 - function of the Competition and Consumer Act 2010
 - role and jurisdiction of the Australian Competition and Consumer Commission (ACCC)
- analyse legal concepts of business organisational structures, and underlying regulation including the application of these to:
 - sole traders
 - partnerships
 - corporations
 - trusts
 - agencies
 - joint ventures
 - incorporated associations
- identify and reference the key features of Australian corporations law
- examine legal concepts and scope of law covering trusts

Assessment Conditions

Gather evidence to demonstrate consistent performance in conditions that are safe and replicate the workplace. Noise levels, production flow, interruptions and time variances must be typical of those experienced in the tax (financial) advice services field of work and include access to:

- office equipment, technology, software and consumables
- relevant legislation, regulations and codes of practice.

Assessors must satisfy NVR/AQTF assessor requirements.

This unit is designed to meet the education requirements of the Tax Practitioners Board (TPB). Where registration with the TPB is sought, assessment must reflect the conditions described by the regulator which stipulate that at least 40% of the assessment must be completed under some form of independent supervision. Where recognition of prior learning (RPL) is used, it must also meet the requirements of the TPB's policy on RPL. Details of requirements can be accessed on the TPB website (www.tpb.gov.au).

Links

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