



Australian Government

FNSTPB517 Apply legal principles in commercial law when providing tax (financial) advice services

Release: 1

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Modification History

Release	Comments
Release 1	This version first released with the FNS Financial Services Training Package Version 8.0. Supersedes and is equivalent to FNSTPB507 Apply legal principles in commercial law when providing tax (financial) advice services.

Application

This unit describes the skills and knowledge required to research, identify and analyse commercial law principles and apply relevant principles to a client's circumstances.

The unit applies to individuals who provide tax (financial) advice services as defined in the Tax Agent Services Act 2009. Individuals providing such services may be required to be registered tax agents with a tax (financial) advice services condition.

Work functions in the occupational areas where this unit is used are generally subject to regulatory requirements. This unit is designed to meet the education requirements of the Tax Practitioners Board (TPB). Users are advised to check with the relevant regulatory authorities to confirm those requirements.

Pre-requisite Unit

Competency Field

Unit Sector

Tax practitioners

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	1.1 Identify client circumstances and tax (financial) advice services

ELEMENT	PERFORMANCE CRITERIA
law principles relevant to identified client circumstances	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 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 relevant to the client's circumstances and tax (financial) advice services 2.2 Explain scope and authority of advice to client 2.3 Explain to client, within scope of authority, commercial law principles applicable to their circumstances and tax (financial) advice services being provided 2.4 Advise client to seek independent legal and specialist advice as required
3. Establish and explain implications of commercial law principles	3.1 Analyse the implications of commercial law principles that apply to client's circumstances and tax (financial) advice services 3.2 Explain to client, within scope of authority, implications of commercial law principles applicable to their circumstances and tax (financial) advice services provided
4. Maintain knowledge of commercial law principles	4.1 Review client's circumstances and 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 Establish process for reviewing relevant legal sources and applying any changes in daily work

Foundation Skills

This section describes those language, literacy, numeracy and employment skills that are essential to performance but not explicit in the performance criteria.

SKILL	DESCRIPTION
Oral communication	• 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 • Asks questions and listens to responses from clients and others

SKILL	DESCRIPTION
	using appropriate vocabulary and non-verbal features
Reading	Accesses, comprehends, assesses and interprets complex documents with a high level of technical detail
Self-management	Accepts responsibility for providing advice according to requirements of own role and relevant legislation
Planning and organising	- Plans and organises tasks aiming to provide accurate information to the clients - Applies systematic and analytical processes to decide on most appropriate advice for clients
Technology	Uses the main features and functions of digital tools to complete work tasks and to access information

Range of Conditions

Unit Mapping Information

Supersedes and is equivalent to FNSTPB507 Apply legal principles in commercial law when providing tax (financial) advice services.

Links

Companion Volume Implementation Guide is found on VETNet -

<https://vetnet.gov.au/Pages/TrainingDocs.aspx?q=c7200cc8-0566-4f04-b76f-e89fd6f102fe>

Assessment Requirements for FNSTPB517 Apply legal principles in commercial law when providing tax (financial) advice services

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Performance Evidence

The candidate must demonstrate the ability to complete the tasks outlined in the elements, performance criteria and foundation skills of this unit, including evidence of the ability to:

- provide taxation services to at least two different clients.

In the course of the above the candidate must:

- analyse the client needs and tax (financial) advice services requiring specialised independent tax advice
- research, analyse and evaluate relevant national requirements and guidelines on tax requirements, including tax administration, relevant to the client's circumstances and the tax (financial) advice services being provided
- present commercial law principles and implications to the client when providing the tax (financial) advice service.

Knowledge Evidence

The candidate must be able to demonstrate knowledge to complete the tasks outlined in the elements, performance criteria and foundation skills of this unit, including knowledge of:

- 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
- legal concepts and scope of contract law, including:
 - formation – agreement and intention to create legal relations, consideration, form, legality and capacity
 - contents – express terms, exclusion clauses, implied terms, common law and statutes
 - vitiating elements – unconscionability, misrepresentation, capacity
 - discharge – remedies, including damages, rescission for unconscionable conduct
 - agency
- legal concepts and scope of consumer law within own role, including:
 - misleading and deceptive conduct
 - function of the Competition and Consumer Act 2010
 - role and jurisdiction of the Australian Competition and Consumer Commission (ACCC)
- legal concepts of business organisational structures, and underlying regulation, including application of these to:
 - sole traders
 - partnerships
 - corporations
 - trusts
 - agencies
 - joint ventures
 - incorporated associations
- key features of Australian corporations law relevant to own role
- legal concepts and scope of law covering trusts relevant to own role
- sources of commercial law information relevant to client circumstances and the tax (financial) advice services requirements.

Assessment Conditions

Skills in this unit must be demonstrated in a workplace or simulated environment where the conditions are typical of those in a working environment in this industry.

This includes access to:

- office equipment, technology, software and consumables
- clients requiring tax (financial) advice services
- relevant legislation, regulations and codes of practice.

Assessors of this unit must satisfy the requirements for assessors in applicable vocational education and training legislation, frameworks and/or standards.

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. 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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<https://vetnet.gov.au/Pages/TrainingDocs.aspx?q=c7200cc8-0566-4f04-b76f-e89fd6f102fe>