

Compilation of Significant ED Comments

Note: This Agenda Item has been prepared **for information only**. A comprehensive summary of the significant comments received on the Exposure Draft (ED) of [Proposed Revisions to The Code Addressing Tax Planning And Related Services](#), and the Task Force’s related analysis of significant issues and proposals are presented in **Agenda Item 9-A**.

Description of Tax Planning and Related Services

2. Do you agree with IESBA’s description of TP and Related Services as detailed in Section VII.A above?

No	Respondent	Respondent Comments
1	Accountancy Europe	<p>We agree in principle with the IESBA’s description of tax planning activities as comprising “a broad range of activities designed to assist an employing organization in structuring its affairs in a tax-efficient manner.”</p> <p>We understand the IESBA’s reasoning to not use the OECD’s definition of tax planning, which emphasizes minimizing the tax liability. We feel that the IESBA’s description is balanced and neutral. Indeed, it could be considered that in some circumstances an entity “structuring its affairs in a tax-efficient manner” would result in it eschewing an overly aggressive interpretation of tax law(s) that could result in tax controversies and could result in the entity being subject to a tax audit or litigation and related costs.</p> <p>That being said, several of our constituents did find the concept of ‘tax-efficient’ to be somewhat vague and open to interpretation. Consequently, the IESBA should consider whether additional commentary is required to reduce the possibility of differences in interpretation of this term.</p> <p>As mentioned in the cover letter, tax policy is a rapidly evolving topic. For example, we expect a legislative proposal from the European Commission within the next few months and we anticipate that this will contain an ‘operationalizable’ definition of aggressive tax planning. We propose that IESBA monitors developments in this area as they may feed into the discussion on the definition of tax planning.</p> <p>Additionally, we have concerns with the inclusion of ‘related services.’ It is not apparent why ‘related services’ are included in this section as the requirements (e.g. R380.6, R380.9, R380.11 etc) refer to ‘tax planning arrangements’. Although this section only covers a description of tax planning and related services, it introduces a level of uncertainty as to whether related services are automatically drawn into the requirements or not. This should be clarified in the final text.</p>

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		<p>It could be argued that where ‘related services’ are an integral part of a tax planning arrangement that they should be in scope of the requirements, but this is not clearly stated in the text.</p> <p>Consequently, we suggest that the IESBA consider the rationale behind including a description of ‘related services’ in the text and clarifying whether they are in scope of the requirements (and if so, which specific requirements are intended to apply).</p> <p>If related services are fully included, and where they are not an integral part of a tax planning arrangement, we believe that it would be beneficial to highlight that for such related services it will be easier to establish a credible basis and that a substantial stand-back test may not be required, particularly where the related services are primarily compliance related. This will help to reduce the possibility of unintended consequences.</p> <p>Additionally, we have concerns with the inclusion of ‘another party’ in the first sentence of Article 380.5 A3. Presumably, this is to link this Article with Article 380.22 A1 Tax Planning Products or Arrangements Developed by a Third Party – if so, we would recommend that this is explicitly expressed. If not, then the term should be excluded or otherwise explained as the current wording suggests that the PA could be forced to monitor the activities of other service providers to be in compliance with the Code.</p>
2	Accounting Professional & Ethical Standards Board Limited	<p>APESB agrees that clearly describing tax planning and related services is important. This will establish a clear scope and assist professional accountants in understanding and implementing these new provisions.</p> <p>However, APESB is concerned that the currently proposed Tax Planning and Related Services description may capture a broader range of taxation services than was intended. The definition of Tax Planning services in proposed paragraphs 280.5 A1 and 380.5 A1 is high-level and generic. While the examples of services set out in paragraphs 280.5 A2 and 380.5 A2 help clarify the intended scope and extent of Tax Planning, we believe it would enhance users' understanding if additional guidance were included in the IESBA Code on tax services that would not be captured within that term. For example, annual tax compliance work that did not involve tax planning, tax review services, management of communication with revenue authorities and certain tax dispute services.</p> <p>APESB also encourages the IESBA to explain whether the references to transfer pricing arrangements/practices are to the initial advice and implementation of the transfer pricing arrangement or whether it includes the ongoing transfer pricing compliance aspects in the ensuing years.</p>

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		<p>The IESBA should consider clarifying the guidance and examples for ‘Related Services’ described in proposed paragraphs 280.5 A3 and 380.5 A3. In particular, the inclusion of ‘...preparing the client’s tax return that reflects the position in the tax planning arrangement.’ The proposed guidance about applying this application material is unclear when the tax planning services provided relate to structuring affairs that have a long-term effect. For example, if the tax planning service advised that a trust structure for business ownership be established, would the preparation of the tax return for that structure be considered a related service for the first year or the first few years the structure was in place, or would it capture all tax returns in the future years for that structure?</p> <p>Stakeholders have noted concerns about the use of the terms ‘related services’ or ‘related activities’. Paragraph 30 in the explanatory memorandum states that related activities and related services provided by professional accountants are scoped in the provisions in the proposed new sections 280 and 380, and therefore are not explicitly referred to further in those sections. However, this position is not clearly set out within the Sections themselves, and the requirements only refer to Tax Planning services.</p> <p>APESB is concerned about whether the lack of reference to the inclusion of related activities or related services within the new sections will impact the monitoring and enforceability of these provisions. Therefore, to avoid unintended consequences, the IESBA should clarify the scoping of related activities or related services, consistent with how the scope of terms such as ‘Member’ and ‘Audit’ are described in the introductory paragraphs in Section 400 of the IESBA Code.</p> <p>Alternatively, the complete phrase ‘Tax Planning and Related Services’ could be used to remove doubt and avoid misinterpretation or misapplication of the requirements.</p>
3	American Institute of Certified Public Accountants	<p>As written, the descriptions of tax planning in paragraphs 380.5 A1 and 280.5 A1 and related services in paragraphs 380.5 A3 and 280.5 A3 are too broadly drafted since they will include advisory services where the primary goal is not tax planning. An example is wealth management with the goal of growing a client’s business or investment portfolio, which might also include assessing current and future tax liabilities or tax impacts on the client’s decision-making. The results of such decisions will eventually be part of a client’s tax return and the be subject to review by the taxing authorities.</p> <p>It is virtually impossible to provide effective financial planning without a broader understanding of the client’s financial situation and how the tax decisions affect other financial decisions the client may be contemplating. Yet as drafted, these financial planning services would be bound by the same standards that IESBA is proposing to adopt for a tax planning engagement.</p>

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		<p>The concept of tax planning encompasses a wide variety of situations. However, the proposed additions to the IESBA code, as written, are too broad in scope. Just because a transaction or technique has a tax consequence, irrespective of its materiality, purpose, or goal, it should not automatically be affected by these proposed revisions, which are intended to specifically address the concerns expressed around the concept of “aggressive” tax planning as noted in the Explanatory Memorandum (EM) Section II, Paragraph 3. A narrower approach to the definition of “tax planning” should be considered. Perhaps it could incorporate the elements of the definitions outlined in EM Section VII, Paragraph 25 as referenced by the United Kingdom’s HM Revenue & Customs (HMRC) which states that tax planning, “Involves using tax reliefs for the purpose for which they were intended” or the Confédération Fiscale Européenne (CFE) (Tax Advisers Europe) which states that tax planning is the “Focus on delivering savings to clients using legal vehicles and financial transactions specifically established to exploit these technicalities.”</p>
4	Association of Chartered Certified Accountants	<p>We support having a more neutral definition for TP, and recommend it is further refined as follows to better reflect the essence of TP:</p> <p><i>380.5 A1 Tax planning services comprise a broad range of services designed to assist a client, whether an individual or an entity, in exercising discretion in response to choices available in the tax system in structuring the client’s affairs in a tax-efficient manner.</i></p> <p><i>280.5 A1 Tax planning activities comprise a broad range of activities designed to assist an employing organization in exercising discretion in response to choices available in the tax system in structuring its affairs in a tax-efficient manner.</i></p> <p>We find that the current proposed definition is potentially incomplete or even unhelpful as it implies that only activities or services that result in a structuring of affairs in a tax-efficient manner fall under TP. The extent to which TP results in tax efficiency is open to different levels of understanding and judgement, and in many circles ‘tax efficiency’ is seen as a euphemism for ‘tax minimisation’, with the associated negative connotations.</p> <p>By linking the definition of TP to the quantum of the tax liability it is not clear whether choices which result in the same tax liability but have other implications for reputation or society would be subject to the Code. Given that reputation and public interest are both explicitly relevant to ethical considerations within the Code, a more neutral definition would appear more consistent with the principles-based approach and the wider aims of the Code and the Public Interest Framework criteria.</p>

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		<p>We are mindful that the established definitions considered in paragraph 25 of the Explanatory Memorandum are grounded in anti-avoidance rules, the wording of which might inadvertently lead to TP services/activities being viewed negatively even when there is no element of anti-avoidance.</p> <p>We note also that paragraph 30 of the Explanatory Memorandum explains that ‘related services/activities’ are scoped in through paragraphs 380.5 A3 and 280.5 A3, and hence not separately referred to in the remainder of the ED. However, there is no specific provision including ‘related services/activities’ within TP, and by inference, the separate definitions in paragraphs 380.5 A3 and 280.5 A3 suggest that ‘related services/activities’ are specifically not the same as TP. We would welcome clarification within the Code itself.</p> <p>We would also welcome specific guidance on the extent of the ‘related services/activities’. In some jurisdictions, the audited financial statements are an integral part of the company tax return. This could potentially bring the preparation of the financial statements within the scope of ‘related services/activities’ and hence within scope of the Code’s provisions on TP. This would be consistent with paragraphs 380.8 A1 and 280.8 A1 which include references to maintaining all the books and records and making such disclosures to the relevant tax authorities as might be necessary to support a tax position.</p>
5	BDO International	<p>Paragraphs 380.5 A1-A4</p> <p>BDO agrees in principle with the IESBA’s description of TP as outlined in proposed paragraph 380.5 A1. We note that the phrase “tax-efficient manner” could be understood in a pejorative sense in some contexts, and if this phrase is to be used it should be made clear that it is not synonymous with, for example, pursuing an aggressive strategy in relation to tax. Paragraph 380.5 A2 refers to tax minimisation instead (as discussed below). A consistent description is important to avoid any confusion.</p> <p>BDO believes it is crucial to clearly distinguish TP from compliance and dispute resolution services. The former services are typically forward-looking (i.e., addressing certain future tax outcomes), whereas the latter are typically backwards looking (i.e., reporting on events that have already occurred).</p> <p>BDO does not agree that the same provisions are applied to “TP related services”, i.e., tax compliance (including compliance related advisory) and tax dispute resolution services based on a TP position that another party recommended to the client, as suggested in proposed paragraph 380.5 A3. These are already covered by paragraph 110.1 A1 (c)(ii) of the IESBA Code to “... act diligently and in accordance with applicable technical and professional standards.”</p>

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		<p>An example of the problems arising when conflating both sets of services, is the extent of work required to be performed by the PA in carrying out related services. A PA providing TP advice is best placed to take responsibility for the appropriateness of that advice. A PA that solely performs a compliance service relies on the TP advice obtained. Whilst a PA undertaking compliance work must employ reasonable professional scepticism when dealing with information from third parties, if that information is provided by a reputable firm, it is reasonable to place some degree of reliance on that work. Without this reliance, a PA undertaking compliance work may be left having to re-perform the work previously undertaken by another tax adviser before being able to file a tax return (with the taxpayer client therefore having to pay two sets of fees for the same advice). This is neither practical nor necessary to achieve the aims of the ED.</p> <p>BDO is therefore of the view that TP related services based on TP advice provided by another party should not be subject to the proposed section 380. Rather, the PA should be permitted to place reliance on the work of other PAs, similar to the principles contained in the International Standards on Auditing, when providing backward-looking services, for example, tax compliance and tax dispute resolution services.</p> <p>BDO further recommends that, with respect to proposed paragraph 380.5 A3, the IESBA clarifies which services are specifically excluded from related services.</p>
6	Chartered Accountants and CA Australia and NZ	<p>We do not agree with the IESBA’s very broad description of TP as detailed in Section VII.A of the EM.</p> <p>In our view the IESBA should define TP in line with the description used by the Organisation for Economic Co-Operation and Development (“OECD”). Paragraph 26 of the EM confirms that the IESBA believes that the OECD description is closer to what should be the focus of the new sections by “dealing with arrangements to minimise tax liability”. It then notes, without further explanation, that the IESBA considered that the term “tax efficiency” would be more neutral than “tax minimisation”. In our view, defining TP by reference to “structuring [] affairs in a tax efficient manner” (i.e. to “tax efficiency”) broadens the definition of TP well beyond a focus on the egregious tax structuring intended to be targeted and brings within scope a whole range of tax advisory and compliance engagements that should not be within scope. From a tax administrative perspective “tax efficiency” can refer to efficiency of revenue collection or ease of compliance with regulatory and legal requirements. “Tax efficiency” could include, for example, the adoption of a particular tax treatment under legislation that offers a taxpayer a choice of treatments. Accordingly, as noted in our cover letter and reiterated below, we consider that there is enough uncertainty about the scope of proposed sections 280 and 380 with the use of the terms “tax planning” and “related services” without adding a further broad term “tax efficiency” into the mix.</p>

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		<p>Further, we note that in our experience, especially for PAs in SMPs and SMEs, the term TP is generally used to describe “formal tax structuring assignments” undertaken by larger firms for sophisticated clients rather than the TP as detailed in Section VII.A and described in paragraphs 380.5 A1 and 280.5 A1</p> <p>For PAs in SMPs and SMEs, taxation services are usually split between “tax advisory services”, of which “formal tax structuring assignments” is a subset, and “tax compliance services”, which broadly equates to “related services”. While tax minimisation is the objective of most tax advisory services, in practice most of these services are confined to advising clients and employing organisations on compliance with existing laws and regulations because structuring options, especially in the SME sector, are limited by legislation. However, the requirements and guidance material in proposed sections 380 and 280 apply equally to these other tax advisory services as they do to “formal tax structuring assignments” as the interpretation of existing law and regulations can be uncertain and/or the employing organisations and clients may not want to accept the resulting advice.</p> <p>If the IESBA intends all “tax advisory services” to be captured within the scope of proposed sections 380 and 280 as the wording of paragraphs 380.5 A1 and 280.5 A1 implies, we recommend that the IESBA make this interpretation very clear by adding additional examples to proposed paragraph 380.8 A1 and 280.8 A1 that clearly encapsulate the more routine assignments with which PAs in SMPs and SMEs are most familiar. For example.</p> <p><i>Advising [an entity / the employing entity] on how its tax affairs should be conducted in accordance with laws and regulations.</i></p> <p>Proposed sections 380 and 280 are predicated on the assumption that all related services neatly follow the associated tax planning service. This is often not the case for PAs in SMPs and SMEs. Instead, tax advisory services (especially advice on matters such as the utilisation of tax losses or capital distribution strategy) are often provided as part of the tax return preparation process. Accordingly, we recommend that IESBA consider adding the following sentence to the end of paragraphs 380.5 A3 and 280.5 A3:</p> <p><i>“These [services / activities] might be provided subsequent to or concurrently with the linked tax planning [service / activity]”.</i></p>

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7	Chartered Accountants Ireland	<p><u>Related Services:</u></p> <p>Tax planning is a broad term that is made broader by the addendum of “related services”. Some of the activities described as ‘related’ are more closely associated with routine compliance (primarily the filing of tax returns) than planning. For example, assisting to resolve a dispute with a tax authority is an activity that seeks to regularize the tax affairs of an individual or entity, engage constructively with the tax authority to provide information and clarification and ultimately agree a compliant position. There is no tax planning taking place at this stage. This is a common understanding in Ireland and the United Kingdom where Tax Authority officials are not permitted (by their own rules) to raise complaints to relevant accountancy bodies, where the topic of complaint has arisen in the context of a dispute resolution process and the accountant is acting as an agent. Much tax dispute resolution arises in practice from compliance issues, rather than from tax planning issues.</p> <p>The scope of this IESBA project states that it “will not judge the merits of the tax regimes or strategies of jurisdictions, or enter into debates about tax policy, but will consider the importance of developing provisions that are jurisdiction neutral”. An activity is either tax planning or it is not as defined by any of the organizations referred to in the Exposure Draft, e.g. OECD, or as may be defined by any jurisdictions tax regime. Broadening the focus of the ethical provisions specific to tax planning to other types of services, creates further ambiguity which may result in poorer adherence to the core issue of tax planning itself.</p> <p>All professional accountants’ activities are adequately addressed by the current and more widely understood Five Fundamental Principles and Conceptual Framework of the Code of Ethics’. We would recommend the focus of these additional provisions only on Tax Planning Services and to remove sections 380.5 A3 and 280.5 A3 in relation to “Related Activities”.</p>
8	Chartered Professional Accountants Canada Public Trust Committee	<p>The PTC appreciates IESBA’s approach to describing TP in broad and neutral tones, however, stakeholders note that additional consistency, clarity, and additional examples would assist readers.</p> <p>For example, stakeholders agreed that although the term “tax efficiency” sounds more neutral than “tax minimization”, the latter term as well as the term “tax optimization” are more broadly understood and our stakeholders have suggested that either would be a better choice. The PTC also notes that it is crucial to clarify the responsibilities of PAs in serving their clients and employing organizations while protecting the public interest in the context of the term used, whether it is tax optimization, tax minimization or tax efficiency, as there are differences between the views of taxpayers and tax authorities</p>

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		<p>regarding tax results.</p> <p>Furthermore, despite proposing to use the more neutral term in the description of TP, the IESBA has continued to use the term “tax minimization” in the proposed changes and this may cause confusion. Accordingly, the PTC recommends that the IESBA consider revising proposed paragraph 380.5 A1 to: “<i>...in structuring the client’s affairs in a manner that results in tax-optimization [or tax-minimization]</i>”. In addition, the PTC recommends that the IESBA use the same term consistently in its final revisions.</p> <p>The PTC further observes that the Code revisions do not adequately explain what the expectations are for the PA performing the compliance work where they have not advised on the TP arrangement. For example, does the PA have to decide whether the planning has a credible basis before reflecting it in a tax return? If so, our stakeholders believe this may be problematic due to the extra work and costs associated with “recreating the wheel” and that the PA may lack the experience and information to make such a decision. The PTC recommends the IESBA consider making this clarification in the final Code amendments.</p> <p>The PTC also understands that in some cases a PA may be asked to assist a new client deal with a tax dispute for which there is no credible basis, and the role for the PA is to help the client reach a fair and reasonable outcome on the issue. In these situations, the PTC believes that proposed paragraph R380.11 could be interpreted as suggesting that a PA should not accept the tax dispute work in the first place. Accordingly, the PTC recommends that the IESBA consider clarifying with application material that paragraph R380.11 does not preclude a PA from assisting clients in such scenarios.</p> <p>Finally, the PTC notes that the examples provided in proposed paragraph 280.5 A2 only apply to PAs who advise a business’ management or executive team and don’t include PAs who are part of a management or executive team that makes decisions about tax planning. Many PAs are in senior management positions or on management teams and would therefore be called upon to make or participate in the decision to adopt one TP arrangement over another. We recommend that the examples in proposed paragraph 280.5 A2 also refer to PAs in management roles.</p>
9	CPA Australia	<p>The description of TP at para. 27 of the EM and sections 380.5 and 280.5 is unclear. There is a difference in opinion amongst our members as to the breadth of tax advisory services affected. One interpretation suggests that only the more novel or complicated arrangements would be captured, while another interpretation is that, given almost all tax services will require some consideration of tax efficiency, the new requirements will impact all tax advisors and their clients.</p>

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		<p>Tax advice is provided on the basis that the correct amount of tax is paid. Given the complexity and uncertainty of taxation laws globally, a range of tax outcomes may be considered by a taxpayer and their advisors and professional judgment is required to determine the appropriate approach for the taxpayer. It would be inappropriate and unprofessional for a tax advisor to establish their clients' affairs so that they pay more tax than is due under the law and caution should be taken to ensure that this description and associated requirements do not inadvertently lead to overpayment of taxes.</p> <p>The examples provided at 380.5 A2 suggest that even the most basic tax advice could be captured. In Australia, this might include the establishment of a small business structure that includes a company or family trust, decisions on the distribution of franked dividends, the allocation of losses across a group structure, family trust elections, the choice of a particular calculation method or advice on the application of the small business rollover for capital gains tax purposes. These are all common and standard forms of advice that ensure that taxpayers are not overtaxed and that they legitimately access the deductions and tax options available to them (i.e., that their tax affairs are managed efficiently).</p> <p>Similarly, the inclusion of related services at 380.5 A3 requires further clarity, particularly in respect to tax controversy and dispute resolution work, or when multiple firms are responsible for different aspects of the taxpayers' affairs. There may be many TP service providers being engaged to advise a taxpayer (including non-PAs), or a PAPP/PAIB may only have limited or peripheral involvement in particular transactions or arrangements. A threshold or list of exclusions would therefore be helpful to better understand when the TP requirements apply.</p> <p>We also query the specific reference to transfer pricing in section 380.5 A2 and note the absence of other similarly challenging areas of tax law, particularly in international tax. We suggest either removing the specific reference, or instead include additional examples (e.g., those identified for BEPS Actions by the OECD).</p> <p>CPA Australia largely supports the wording proposed at para. 27 of the EM and the breadth of the description by specifically referencing PAIBs and PAPPs. We support the use of the word 'structuring' and consider it to be broader than the term 'arrangement' used by the OECD and certainly broader than the terms 'tax reliefs', 'legal vehicles' and 'financial transactions' used by UK HMRC and CFE (Tax Advisers Europe). Further, we support the use of the broad term 'affairs'.</p> <p>However, we have concerns with the use of the terms 'tax-efficient' and 'tax efficiency' and its potential confusion with the tax theory principle of efficiency necessary for good tax design as referenced in Footnote 11 of the ED. CPA Australia would prefer the use of the term 'tax minimization'. We note the draft Sections 280 and 380 have used both 'tax-efficient' and 'tax minimization' terms and encourage a single term be use used consistently to avoid confusion.</p>

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10	Deloitte Touche Tohmatsu Limited	<p>Deloitte Global is generally supportive of the approach taken by the IESBA with respect to the description of TP and the scope of services addressed.</p> <p>Notwithstanding the above, Deloitte Global does not support the inclusion of transfer pricing arrangements as an example of “advising an entity on structuring its international operations to minimize its overall taxes” in the illustrative examples included in paragraphs 280.5 A2 and 380.5 A2. Transfer pricing should not be described as tax planning. As it is already the requirement under the relevant OECD standards and other applicable laws in numerous jurisdictions to adopt an arm’s length standard, transfer pricing services are more appropriately considered to be tax compliance services. We suggest that the words “<i>including through transfer pricing arrangements</i>” be deleted in both paragraphs 280.5 A2 and 380.5 A2.</p>
11	Ernst and Young Global Limited	<p>We partially agree with the IESBA’s description of tax planning and related services (“TP&R Services”) as detailed in Section VII.A of the Explanatory Memorandum (the “EM”).</p> <p>We agree with the IESBA’s description of tax planning services (“TP Services”) in proposed paragraph 380.5 A1, noting that it is largely consistent with the extant definition provided in paragraph 604.11 A1. The proposed definition takes a neutral stance in that it does not portray TP Services as inherently inappropriate or unethical, and we believe this is important for an acceptable definition of TP Services. However, the description in paragraph 604.11 A1 includes “advising on the application of tax law or regulation,” and we believe this should likewise be included in the description provided in proposed paragraph 380.5 A1 to maintain consistency.</p> <p>However, with regard to the definition of related services (“Related Services”) as it pertains to PAPPs in proposed paragraph 380.5 A3, the Board is proposing to include services that are provided by “another party” that are based on or linked to the TP Service. We believe more clarification is needed as to the applicability of the ethical framework to “another party” as it is not clear which other parties this is intended to capture, and why the other party’s service would create a threat to the fundamental principles for the PAPP. It is not uncommon for a client to separately engage parties to provide either TP Services or Related Services. These separately engaged services might not be within the scope of the services for which the PAPP was engaged to provide. For example, a client might engage the PAPP to provide the original TP Service, but separately engage another party for Related Services to assist with resolving a dispute with the tax authority based on the tax position that the PAPP recommended. Likewise, the client might engage another party to provide the TP Service and then separately engage the PAPP for Related Services to prepare the client’s tax return that reflects the position in the tax planning arrangement. In the first example, the PAPP may not be aware of the service</p>

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		<p>provided by another party, or in the second example the PAPP's Related Service will be performed well after another party provided the original TP Service. In these two examples, it is unclear how the PAPP would apply the proposed ethical framework to the TP Services or the Related Services that were provided by another party. The Board should consider either removing "another party" from the definition in proposed paragraph 380.5 A3, or further explaining how the PAPP should apply the proposed ethical framework to Related Services provided to the client by an unrelated other party.</p> <p>If the PAPP engages another party to provide the TP Service or Related Services to the client, and the other party is under the direct supervision of the PAPP, then it is clear that the PAPP would need to apply the ethical framework and ensure that the other party, under the direct supervision of the PAPP, also applies the ethical framework.</p>
12	European Federation of Accountants and Auditors for SMEs	<p>We do not agree with some of the proposed description.</p> <p>We believe that the scope of arrangements that fall under the description of tax planning and related services is too broad and goes far beyond focusing on the most pressing issue of aggressive tax minimization. This broad definition may inadvertently create onerous requirements for many simple benign services. To exacerbate matters the proposed definition of tax planning includes arrangements where affairs are structured in a "tax-efficient" way. In effect, this means any arrangements that are of economic benefit to the client would be within scope. Such wording combined with the broad scope may ultimately create more work for simple schemes that are clearly legal but aim to be tax efficient.</p> <p>We welcome in principle providing examples of TP services though wonder whether it would be better to focus on examples that limit the scope and illustrate the more contentious types of arrangements where application of the guidance would be most important.</p>
13	European Tax Adviser Federation	<p>We agree with the description of tax planning activities as "a broad range of services designed to assist a client, whether an individual or an entity, in structuring the client's affairs in a tax-efficient manner".</p> <p>We find it balanced, neutral and appreciate the fact that it is accompanied by illustrative examples of tax planning services or activities mentioned in paragraphs 380.5 A2 and 280.5 A2.</p> <p>Concerning paragraphs 380.5 A2 and 280.5 A2, we agree that minimizing the overall taxes can indeed be a motivation for a client. However, clients can also seek tax planning advice to get a complicated issue, such as tax affairs and</p>

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		<p>international tax law, done in a good and workman like manner. In this regard, we believe that the wording “to minimize their overall taxes” should be rather replaced by a more neutral wording such as “in tax issues”.</p> <p>If we were to add anything else, it would be more examples of related services in paragraphs 380.5 A3 and 280.5 A3, particularly those referring to handling the relationship between the client entity and the tax authority, such as assisting the client with its fiscal matters’ procedures for example.</p> <p>We consider that some new emerging services could also be added, such as the assistance with implementing and reporting for SAF-T purposes or services combining a significant digital component and a professional accounting and tax knowledge.</p>
14	Grant Thornton International Limited	<p>GTIL believes the descriptions in section 380.5 A2 and 280.5 A2 could be refined or clarified so that they do not include services where the primary goal is not tax planning, but rather where tax planning is an ancillary result.</p> <p>An example is wealth management services with the goal of growing a client’s business or investment portfolio where the related impacts on current and future tax liability or where tax impacts have a basis in the client’s decision-making, and the results of such decisions will eventually be part of a client’s tax return and the be subject to review by the taxing authorities. It is impossible to do effective financial planning without a broader understanding of the client’s financial situation and an understanding of how the tax decisions impact other financial decisions the client may be contemplating. However as drafted, these financial planning services could be bound by the same standards that IESBA are proposing to adopt for tax planning engagements.</p> <p>Furthermore, the concept of ‘tax-efficient’ may be widely applied in practice and more guidance may be needed to have a consistent approach. Therefore, paragraphs 380.5 A1 and 280.5 A1 could also explicitly state that arrangements that are contrary to the clear intention or purpose of statutes should not be deemed as acceptable tax planning.</p> <p>Lastly, in section 380.5 A3, an example of a related service is “preparing the client’s tax return that reflects the position in the tax planning arrangement”. There are often situations where a professional accountant is engaged to prepare a tax return and a third party (e.g., a law firm or other accounting firm) has done the tax planning services. The proposed provisions seem to suggest that the professional accountant may be required to obtain the details of the tax planning arrangement, analyze them, and determine whether the tax planning arrangement has a credible basis in laws and regulations. If a credible basis has not been established, the professional accountant will need to advise the client of this. This position seems beyond the scope of tax return preparation services.</p>

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15	IFAC Small and Medium Practices Advisory Group (SMPAG)	<p>The SMPAG disagrees with part of the proposed description. As noted above, the scope of arrangements that fall under the description of tax planning and related services is broad, and goes far beyond targeting aggressive tax minimization, which is where the most pressing issues are. This broad definition has the potential to create onerous requirements in relation to many simple services and is not helped by the proposed definition of tax planning in 380.5 A1 and 280.5 A1. The definition includes arrangements where affairs are structured in a “tax-efficient” manner, which effectively means any arrangements providing an economic benefit to the client would be in scope. The use of this wording compounds with the existing broad scope and potentially creates extra work for simple schemes that are clearly legal but seek to be tax efficient and are not thus comparable with the sort of contentious aggressive, tax-minimization arrangements this project is aimed at addressing. While there is merit in having limited examples, it is challenging to understand the boundary using the examples in 380.5 A2. We believe that further consideration should be given to examples that limit the scope and focus on providing clarity over the contentious kind of arrangements where it would be most important to apply the revised guidance.</p> <p>The proposed Code revisions are also silent on how the guidance will impact PAs fulfilling voluntary positions, for example by providing support to their government, small private clubs or charities. This is a feature in many jurisdictions, and PAs may have roles on resolution committees or other boards where they are required to consider tax planning arrangements. It would be useful to add some examples to highlight that such voluntary services provided are also covered by the proposed revisions to the Code.</p>
16	Independent Regulatory Board for Auditors	<p>We agree with the IESBA’s description of TP, as detailed in paragraph 380.5 A1.</p> <p>We suggest that in bullet point 1 of paragraph A380.5.A2, a reference to international structuring or cross-border transactions be included. We question the inclusion of tax compliance services based on a TP position that another party recommended to a client. The extent of work that would be required of the PA in carrying out the compliance work is unclear, as well as whether this could amount to providing a second opinion.</p> <p>Further, there is no clarity in paragraph 380.5.A3 on which services are excluded from related services. We therefore suggest that the examples mentioned in paragraph 380.5.A3 be removed.</p>
17	Institut der Wirtschaftsprüfer	<p>In principle, we agree with the description of tax planning and related services. However, we would like to point out that tax planning is a future-oriented activity and related services tend to relate to a past-oriented activity. At the beginning, the exposure draft distinguishes between tax planning and related services. Later, however, the provisions often refer</p>

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	r in Deutschland e.V.	<p>exclusively to tax planning. Under certain circumstances, this differentiation results in different procedures, e.g., for the stand-back test or the steps to reduce uncertainty. In Germany, for example, it is only possible to obtain an advanced ruling (“verbindliche Auskunft”), if the arrangement has not yet been actioned. Based on discussions, we assume that a very strict understanding of related services is implied in the ED. We suggest that this should be clarified. A broad understanding of related services would, for example, require a revision of the recommendations for actions to determine if there is a credible basis (380.11 A3). We also believe that the actions proposed in 380.17 A3 are applicable especially in the context of (future-oriented) tax planning services and not (past-oriented) related services.</p> <p>Furthermore, we believe that ethical considerations are not only required in the limited field of tax planning and related services. In general, the provision of any type of tax advice should take ethical considerations into account. We would therefore recommend expanding the scope of the rules to include the entire area of tax advice. This would also avoid any difficulties in classifying services. However, the IESBA should clarify that the stand-back test re-quired by R380.12 would not involve an onerous task regarding tax services that are routine or non-controversial in nature. In addition, the implementation of an effective tax compliance management system should also be seen as an indication of the existence of a credible basis.</p>
18	Institute of Certified Public Accountants of Uganda	<p>ICPAU does not entirely agree with IESBA’s description of TP and examples of tax planning services listed in 380.5 A2. We believe that the proposed definition of tax planning includes arrangements where affairs are structured in a “tax-efficient” way. In effect, this would mean that any arrangements that are of economic benefit to the client would be within the scope of this definition. This is likely to impose implementation challenges since at any one moment in time, there is no such a time when tax laws will cover up all routes to curb tax planning. Taxpayers will always be proactive in addressing emerging issues, not waiting and watching but keenly keep changing their tax planning in response to legislation or re-evaluating their tax strategy based on any emerging recent events. Judge Learned Hand in, Commissioner of Internal Revenue v. Newman, 159 F.2d 848 (2d Cir. 1947) notes that: “... Over and over again the Courts have said that there is nothing sinister in so arranging affairs as to keep taxes as low as possible... nobody owes any public duty to pay more than the law demands. “</p> <p>With the foregoing, we believe the proposed wording of the definition of tax planning may suffocate business arrangements that are legal but designed in a manner intended to ensure tax efficiency. We are in agreement with providing examples of TP services though emphasis should have been put on those more aggressive tax planning</p>

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		schemes. We further believe that additional application material is necessary to enable PAs to appreciate the attributes of tax planning and related services.
19	Institute of Chartered Accountants in England and Wales	<p>We agree in principle with the IESBA’s description of tax planning activities set out in 380.5 A1 as comprising “a broad range of activities designed to assist a client, whether an individual or and entity, in structuring its affairs in a tax-efficient manner.” Tax-efficient could be seen as a pejorative term so we would encourage any guidance etc. to make it clear that ‘tax-efficient’ does not imply adoption of an aggressive tax strategy but could mean, for example, adopting a tax strategy that maximized certainty of treatment, thus minimizing the scope for challenge and correction later.</p> <p>However, we are concerned that some of the examples listed in the following section are unhelpful and send out a conflicting message. If IESBA has settled on the term ‘tax-efficient’ as a neutral term, then it should be used in all the bulleted examples listed. As it is, the first two refer to tax minimization and the second bullet has an unhelpful reference to transfer pricing arrangements. We suggest that these bullet points are amended as follows:</p> <ul style="list-style-type: none"> • Advising an individual on tax-efficient ways to structure their investment, retirement or estate planning objectives. • Advising an individual business owner on structuring their ownership and income from the business in a tax-efficient manner. • Advising an entity on structuring its international operations in a tax efficient manner. • Advising on utilizing available losses in a tax-efficient manner. • Advising an entity on how to structure its capital distribution strategy in a tax-efficient manner. • Advising an entity on arranging its employee compensation strategy in a tax-efficient manner. <p>Concerns have been raised about the scope of ‘related services’ in section 380.5.A3. The definition includes, as examples, tax compliance and dispute resolution. Whilst similar principles are likely to apply to each type of work as they do for tax planning, they may not always be identical. Consideration should be given as to whether further guidance or clarification is needed on what are ‘related services’ for these purposes and whether any principles identified might need to be modified to reflect the particular circumstances of the related service.</p>
20	Institute of Chartered	We agree with the description of the tax planning services. It is largely consistent with the extant definition provided in paragraph 604.11 A1.

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	Accountants of India	With regard to the “related services,” we believe more clarification is needed as to the applicability of the ethical framework to “another party” as it is not clear which other parties this is intended to capture.
21	Institute of Chartered Accountants of Nigeria	<p>We agree with the Board’s description of tax planning as contained in Section VII.A of the document.</p> <p>However, there is need for the Board to clarify further or expatiate the meaning of the word “tax efficiency”, so as to show the direction of its interpretation by professional accountants while forming their judgement. The Board can provide some examples of tax efficiency for clarity as what constitutes tax efficiency may differ across jurisdictions.</p>
22	Institute of Chartered Accountants of Scotland	<p>We agree that it is important to establish a description of ‘tax planning’ to identify the professional services and activities that the Code would address.</p> <p>We note that IESBA proposes the following description:</p> <p>Tax planning comprises a broad range of [services/activities] designed to assist [a client, whether an individual or an entity/an employing organization] in structuring [the client’s/the employing organization’s] affairs in a tax-efficient manner</p> <p>We accept IESBA’s description of tax planning activities.</p> <p>Whether the term used is ‘tax planning’ or ‘tax efficient’, both of these can be viewed as having negative connotations; this may be unhelpful. Any supporting documentation etc should make it clear that a negative interpretation is not necessarily applicable. In our view, tax planning means that an adviser provides independent advice on paying the right amount of tax at the right time and informs the client/employer of reliefs and allowances that the government has made available.</p> <p>It may be that further guidance would be of assistance in interpreting ‘related services’ as some concerns have been raised about the potential scope suggested by new paragraph 380.5.A3.</p>
23	Institute of Financial Accountants	The IESBA’s proposed description is that tax planning ‘comprises a broad range of [services/activities] designed to assist [a client, whether an individual or an entity/an employing organization] in structuring [the client’s/the employing organization’s] affairs in a tax-efficient manner’. Broadly, we agree with this description. However, it might be simplified to provide a single definition, which would be supported by different examples in each of the two new sections of the Code.

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		<p>In the context of serving a client or employer, structuring affairs in a tax-efficient manner entails seeking to minimize the client's (or employer's) tax liability, and we consider it might be unhelpful to obscure that fact by avoiding the word 'minimize'. Therefore, we propose a simplified description for tax planning, that it 'comprises a broad range of activities designed to assist a client or employer in structuring their affairs in order to minimize their tax liability'. Including this in the Code's Glossary would help to streamline sections 380 and 280.</p> <p>The description of tax planning may have an impact on the work of tax authorities and regulators in IFAC member states, including the current project of HM Revenue & Customs in the UK on raising standards in tax advice. It is possible that the UK definition will correspond, to a great extent, with the definition of tax adviser in the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) regs 2017: 'a firm or sole practitioner who by way of business provides material aid, or assistance or advice, in connection with the tax affairs of other persons, whether provided directly or through a third party, when providing such services'. While these two descriptions do not appear to contradict each other, the IESBA must be mindful that relevant definitions exist in UK and EU law.</p>
24	Instituto dos Auditores Independentes do Brasil	<p>TP might be interpreted broadly depends on the level of knowledge and experience for the third party who is having access to the services being provided. Then, it is important that all possible and detailed description of the actions, activities and attributions for TP would be provided in the Code such as examples of circumstances in order to avoid that the same services provided could be viewed as TP for someone and for others might be viewed as non-TP services.</p>
25	International Bar Association Tax Committee	<p>We broadly agree with the IEBA's description of TP.</p> <p>However, we note that the description of TP is further widened through the addendum of 'related activities or services. In this context, some of the activities described as 'related' may include services such as filing of tax returns or resolving disputes with tax authorities, etc. As such, in principle, we agree that 'related' services should be covered under TP to make the definition of TP holistic. However, we are of the view that a distinction should be made between a PA who has provided substantive TP services whilst also providing such related services vis-à-vis a PA whose scope of service is limited to executing a step connected to such TP arrangement on a standalone basis like filing of return of income. There could be a possibility that in the latter case, the PA may not have access to the TP arrangement nor a reason to believe that such routine compliance is part of the TP arrangement. In the absence of such differentiation, it may be impracticable for such a PA to render services to a Client. In our view, related services provided by a PA who renders substantive advice</p>

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		<p>in connection with the TP arrangement should be considered at parity with TP, standalone provision of related services (where the PA has no nexus with the substantive advice in connection with the TP services) may be excluded from TP.</p> <p>Further, the related services are more closely associated with routine compliance than planning. Similarly, assisting to resolve a dispute with a tax authority is an activity where a tax position taken by Client is contested and assistance is formally provided in defending the position in terms of law and existing jurisprudence on such position. Such activities would ordinarily be routine and outside the scope of TP. Moreover, PA is expected to comply with other ethical standards while rendering such services. Furthermore, practitioners would get involved in these downstream activities once the strategic tax planning was already set in motion.</p> <p>Basis the above, we would recommend introducing some parameters for ‘related activities or services’, which could distinguish between ‘related activities or services’ being rendered as an integral part of TP vis-a-vis related services provided on a standalone basis without participation in TP activities.</p>
26	Japanese Institute of Certified Public Accountants	<p>We agree with the proposed description of TP as detailed in Section VII.A. However, in Japan, it is the exclusive duty of certified public tax accountants to provide any tax-related services to others, which is prohibited to be provided by other than certified public tax accountants. Furthermore, there are several other jurisdictions in addition to Japan that have similar systems in place. This practice should be considered in applying the Code. We suggest that the IESBA should explain cases where a system exists for the service of certified public tax accountants which is different from that of professionals only with CPA license in the Basis for Conclusion.</p>
27	Malaysian Institute of Accountants	<p>While we agree with the scope of TP services detailed in the proposed sections, we are concerned over the inclusion of TP-related services (tax compliance services and tax dispute resolution services) based on a TP position that another party recommended to the client, as suggested in proposed paragraph 380.5.A3. This could raise questions as to the extent of work required to be performed by the public accountant (PA) in carrying out compliance work. When providing TP services that are typically forward-looking, PAs typically have a high degree of certainty pertaining to the tax advice provided. However, when providing tax compliance services alone, there is a lower degree of certainty pertaining to the tax position taken. We believe that TP-related services based on TP advice provided by another party should not be subjected to the full scope of proposed section 380. Instead, the PA should be allowed to place reliance on the work of other PAs, parallel to principles in the International Standards on Auditing on using the work of other auditors.</p>

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		<p>In addition to the above and with respect to the proposed paragraph 380.5 A3, we would also suggest that the IESBA clarify which services are specifically excluded from related services.</p>
28	Malaysian Institute of Certified Public Accountants	<p>Agree. The description provides a comprehensive view of tax planning and the list of activities covered, but not limited to those activities, under a tax planning advice or solution. Besides, the use of 'tax efficient manner' as opposed to 'tax minimization' signifies PAs commitment to optimizing their clients' tax obligations based on the relevant tax laws and regulations, which is consistent with their duties in upholding the public interest. Further, minimizing risk of disagreements with the tax authorities should also be part of tax planning.</p>
29	Malta Institute of Accountants	<p>As this document has highlighted, there are multiple definitions of TP already. We recommend that the definition is kept as close as possible to the OECD's definition, and while we understand and agree that "tax efficiency" is a more neutral term than "tax minimisation" we feel that the use of the word "structuring" is more charged than the OECD's choice of the word "arrangement of a person's ... affairs". The definition we would support is therefore:</p> <p>Tax planning comprises a broad range of [services / activities] designed to assist [a client, whether an individual or an entity / an employing organisation] in managing and administering better their affairs in a tax-efficient manner.</p>
30	Pennsylvania Institute Of Certified Public Accountants	<p>The committees believe that the proposed description of tax planning services is overly broad and are concerned that a simple question from a tax client could fall under the new guidance. It would be impossible to comply with the proposed requirements for every question raised by a client. Because the inference is not only tax planning but also tax-planning-related services, a newsletter, podcast, or informational press release could be interpreted as tax planning by someone. There is no "engagement-driven" language to prevent the belief that a public accountant has stumbled or tripped into a tax-planning service. For example, Section 3805 A4, "...this section applies regardless of the nature of the client..." This could be contrary to the public interest, as professional accountants may not be willing to answer basic questions going forward if they have to comply with these rigorous standards.</p> <p>However, with regard to related services as they pertain to professional accountants in proposed paragraph 380.5 A3, we believe more clarification is needed as to the applicability of the ethical framework to "another party," as it is not clear which other parties this is intended to capture. It is not uncommon for a client to separately engage parties to provide either tax planning services or related services. These separately engaged services might not be within the scope of the services for which the professional accountant was engaged to provide. In these cases, it is not clear how the proposed ethical framework would be applied, such as when the professional accountant provides the original tax-planning service</p>

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		<p>but a separate provider engaged by the client (i.e., “another provider”) assists with resolving a dispute with the tax authority based on the tax position the professional accountant recommended. Likewise, it is not clear how the ethical framework would be applied when another party provided the tax-planning service, and the professional accountant prepares the client’s tax return that reflects the position in the tax-planning arrangement. In both cases, the professional accountant may not always be aware of the services provided by the other party.</p>
31	PKF (Durban)	<p>No, we do not agree with this description for the reasons noted in point 1 above and reiterate that the terminology should be aligned to the tax services description contained in section 604.2 A1 and A2 to not cause any unnecessary confusion or where it be clearly identified which paragraphs of the new code would apply to TP services and which paragraphs of the code would apply to related services. We are of the view that if this is the intention of the IESBA then this needs to be clarified.</p> <p>It is not clear in the ED if the IESBA will be including the definition of tax planning as articulated in the explanatory memorandum as the definition has been included as application guidance in paragraph 308.5 A1.</p> <p>Paragraph 28 of the EM states “To facilitate consistent application, the IESBA is proposing in paragraphs 380.5 A2 illustrative examples of TP services or activities covered under these sections.”</p> <p>It is acknowledged that the list contained in terms of paragraph 380.5 A2 are examples however it sets out a very specific list of transactions may be interpreted by some PAs as only covering those specified transactions. There is a potential risk that transactions that qualify as tax planning and not listed in paragraph 380.5 A2 may not be considered by professional accountants. The lists may be considered as a checklist and the essence the proposal may not be achieved.</p> <p>However, on the contrary some PA’s and potentially PAOs may interpret the term "structuring" as being a very broad term which is not clearly defined as it varies from professional accountants completing client returns to more complex transactions. Based on this interpretation there is a potential risk that transactions that should not be covered are in fact included.</p> <p>As indicated above, paragraph 380.5 A2 appears to be a limited list which does not include all transactions relating to structuring. However, if one were to apply the term "structuring" on a broader basis, unintended transactions may be erroneously included. The list of examples increases the risk of subjectivity by professional accountants.</p>

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		<p>We therefore recommend that the list contained in paragraph 380.5 A1 be moved to guidance documentation rather than being included in the Code.</p> <p>We also find issue with the term "related services" contained paragraph 380.5 A3 which states that a PA in preparing the client's tax return must ensure that it reflects the position in the tax planning arrangement regardless of whether that PA or another PA advised on the tax planning arrangement.</p> <p>We note that this does not take into account many instances where the tax planning arrangement is undertaken by a different PA to the PA that is completing the client's tax return and might not be aware of any tax advice that might have been provided by another PA at the time of completing the tax return. Often specialist PAs are used for TP services due to their specific area of expertise hence may not be recurring clients or audit clients or compliance clients. Hence, we are averse to this suggestion for the following reason:</p> <ul style="list-style-type: none"> • The PA completing the return should not be obliged to ask the client whether tax advice was obtained in order to claim any/all deductions on the taxability or non-taxability of its income etc. This is not practical. Unless a taxpayer volunteers such information and provides the tax opinion to the PA completing the return, that PA may not even be aware that any such advice was sought. • Furthermore, in order to assess whether such other PA had a credible basis for the conclusion reached would require a significant amount of work on the part of the PA undertaking the compliance work. This presents 3 hurdles: <ul style="list-style-type: none"> ○ The first being the fact that the compliance PA may not have sufficient knowledge in that area of tax to make such a determination ○ The second being this additional assessment of credible basis may be viewed as the equivalent to the obtaining of a second opinion which is already covered in the Code under paragraph 321. ○ The costs incurred by the compliance PA would most likely not be recoverable by that PA as the client (unless specifically requested a second opinion) would not be willing to compensate the compliance PA for having undertaken these additional functions which in the client's view may be regarded as irrelevant on the basis that they have already sought tax advice on the matter and are satisfied with the opinion provided by the Advisory PA.

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32	Price Bailey	We agree that tax efficiency is more neutral than tax minimization and therefore preferable. We also agree with IESBA's proposal to not reference the intended purpose of reliefs, which sometimes lack clarity that is also variable by jurisdiction.
33	Pricewaterhouse Coopers International Limited	<p>PwC agrees with IESBA's description of TP. However, PwC suggests that in section 380.5 A2, the third bullet "including through transfer pricing arrangements" be slightly modified. The way it is drafted in the Exposure Draft suggests that transfer pricing is a means to minimize overall taxes. We believe that transfer pricing as embodied, amongst others, in the OECD and UN transfer pricing guidelines, is a standard for arm's length dealings between associated enterprises and not a tax planning instrument. We suggest deleting the language from the third bullet and to include a separate bullet as follows: "Advising on transfer pricing taking into account applicable transfer pricing guidelines."</p> <p>We further suggest inserting in 380.5 A3 in the third line, following "tax authority": ", including representing a client in administrative or court proceedings, as the case may be".</p>
34	Public Accountants and Auditors Board Zimbabwe	<p>The PAAB agrees with the IESBA's description of Tax Planning because we also believe that the term "tax efficiency" is more neutral than "tax minimization", due to the following reasons:</p> <ul style="list-style-type: none"> • "minimization" is not efficient as it tends to focus more on the minimization of tax liability which might be efficient to the taxpayer but not efficient to the government and ultimately the society at large. • Tax minimization is limiting in the manner in which a PA might remain independent and the scope of tax affairs to be encompassed in a TP exercise. Tax minimization also has the connotation of fraudulently/criminally avoiding tax which results in blinkered aggression when addressing TP issues.
35	RSM International	We support the description and the proposed incorporation of illustrative examples and extension of the description to related services is welcomed. We suggest that the description be reworded, to emphasise the role of adviser to the client or management, as follows: <i>"Tax planning services comprise a broad range of services designed to assist a client, whether an individual or an entity, in making informed decisions to achieve tax efficiency while complying with tax laws and regulations. structuring the client's affairs in a tax-efficient manner."</i>
36	Saudi Organization for Chartered and	In general, we agree with the IESBA's description of the TP services; the definition of TP that the IESBA has proposed provides a clear and meaningful description of the TP. However, we have a concern about the new key term "tax-efficiency" used in the definition. We cannot find a meaningful reason to add such term that may impose some

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	Professional Accountants	<p>complexities to rightfully interpret and translate the term. It is understood that using the "tax-minimization" term may sound negative, but it may be more truthful and direct to explain the "TP" practice or service without having the unneeded extra effort to introduce the new term; this includes the burden associated with translating the term. We support the guidance proposed in section 280.5 A2 and section 380.5 A2 to explain the types of services considered part of TP, and deem it very helpful in understanding those services that the proposed ethical guidance shall apply to. The other part that we found puzzling in the proposed changes is that the ED attempted to justify the suggested changes by the fact that some wealthy individuals and corporations have been found to exploit tax laws and regulations with the help of professionals (including the PAs) to unethically minimize their taxes. However, from an ethical perspective, the ED drafting did not clearly differentiate between TP services and tax avoidance or tax evasions (unlawful tax minimization).</p> <p>We think that the proposed changes should provide more considerations in the Code to differentiate between compliance with tax laws and regulations (which courts are expected to decide and what NOCLAR requirements in the Code should have already covered) and compliance with the proposed changes. This is because we feel that the understanding of such concepts is still in need of improvement while it represents the essence of the proposed changes. While the Code is there to guide PAs to act in an ethical manner, it may also be used by those users of PAs' service or regulators to hold PAs responsible. Thus, the objectives of the proposed changes as well as the meaning of "ethical practice of TP" as opposed to "unethical TP" should be crystal clear in order to avoid making profession around the world bearing overwhelming responsibilities.</p>
37	South African Institute of Chartered Accountants	<p>The IESBA proposes the following description:</p> <p><i>Tax planning comprises a broad range of [services/activities] designed to assist [a client, whether an individual or an entity/an employing organization] in structuring [the client's/the employing organization's] affairs in a tax-efficient manner.</i></p> <p>(See paragraphs 380.5 A1 and 280.5 A1.)</p> <p>SAICA disagrees with the IESBA's description of TP based on the following:</p> <p>(a) It is not clear in the ED if the IESBA will be including the definition of tax planning as articulated in the explanatory memorandum as the definition has been included as application guidance in paragraph 308.5 A1 and 280.5 A1.</p> <p>Paragraph 28 of the EM states "To facilitate consistent application, the IESBA is proposing in paragraphs 380.5 A2 and 280.5 A2 illustrative examples of TP services or activities covered under these sections." It is acknowledged that paragraphs 380.5 A2 and 280.5 A2 are examples however as it is a very specific list, it may be interpreted by some PAs</p>

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		<p>that they need to only cover those specified transactions. There is a potential risk that transactions that qualify as tax planning and that are not listed in paragraph 380.5 A2 and 280.5 A2 may not be considered by professional accountants. The lists may be considered as a checklist and the essence of the proposal may not be achieved.</p> <p>(b) Also, some PA's and potentially PAOs may interpret the term "structuring" as being a very broad term which is not clearly defined as it varies from professional accountants completing client returns to more complex transactions. Based on this interpretation there is a potential risk that transactions that should not be covered are in fact included. The list of examples increases the risk of subjectivity by professional accountants.</p> <p>SAICA recommends that the definition of tax planning and related services takes into account the tax services description contained in section 604.2 A1 and A2 and include the related services in the same description rather than attempting to lay out specific types of arrangements as tax planning is a complex and diverse service which cannot be summarized into specific transactions taking cognizance of the fact that these are mere examples. Furthermore, the examples contained in paragraph 380.5A2 and 280.5 A2 should be removed.</p>
38	WirtschaftsprüferKammer	<p>We agree with the IESBA's description of tax planning activities as comprising "a broad range of activities designed to assist an employing organization in structuring its affairs in a tax-efficient manner" and understand the IESBA's reasoning to not use the OECD's definition of tax planning, which emphasizes minimizing the tax liability.</p> <p>The concept of 'tax-efficient' seems to be somewhat vague and open to interpretation. Consequently, the IESBA should consider whether additional commentary is required to reduce the possibility of differences in interpretation of this term. Additionally, we have concerns with the inclusion of 'related services' in this section. The requirements in this section refer to tax planning arrangements and it is uncertain, which related services are automatically drawn into these requirements. We suggest a clarification of the 'related services'.</p>