

22 August 2025

Our ref: [SS:SLC]

Email: policy@qls.com.au

The Commissioner of Taxation
Australian Taxation Office
GPO Box 9990
BRISBANE QLD 4000

By email [REDACTED]

Dear Commissioner

Perceived Conflict of Interest when Certifying Copies of Grants of Probate

I write on behalf of the Queensland Law Society's (QLS) Succession Law Committee, which represents the interests of our members.

QLS members have raised concerns with the Succession Law Committee about the Australian Taxation Office's (ATO) policy regarding certification of grants of probate.

Our members have reported ATO officers are refusing to accept a copy of a grant of probate which was certified by the legal practitioner who is appointed under the grant on behalf of the estate. The explanation given to our members is the certifying solicitor has a conflict of interest in certifying the documents if they act for the estate.

Some of our members have been informed the ATO will accept certified copies of grants of probate which have been certified by another qualified witness employed in the same legal practice, provided the certifying witness was not the legal practitioner who obtained the grant of probate or signed the covering letter to the ATO.

We have not found any guidance published by the ATO on this position, although we are aware of information on the ATO website about who can certify copies of identity documents.¹

We urge you to clarify this position as it results in administrative burdens for our members, delays finalisation of estates, and increases costs of administering estates for clients. This policy is also particularly disadvantageous to sole practitioners and sole legal practitioner director incorporated practices as they may not have access to another qualified witness who can certify the documents.

¹ [Copies of identity documents for applicants in Australia | Australian Taxation Office](#)

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Queensland legal practitioners are trusted officers of the Supreme Court of Queensland and subject to strict ethical obligations under the *Legal Profession Act 2007* (Qld) and the Australian Solicitors' Conduct Rules 2023, which includes:

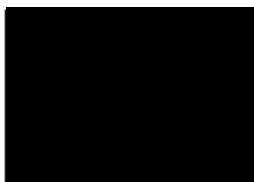
- a paramount duty to the court and the administration of justice;
- a duty to serve the best interests of their client;
- a duty to act honestly and courteously in **all dealings in the course of legal practice**;
- a duty to avoid any compromise to their integrity and professional independence; and
- **a duty not to engage in dishonest and disreputable conduct**.

Our interstate counterparts hold the same position as officers of their Supreme Court and are subject to the same ethical obligations.

In our view, certifying a copy of a client's document for use in a client's estate matter is not a conflict of interest, as it is a task our members are regularly required to perform in the ordinary course of administering an estate. As officers of the court, legal practitioners are diligent in ensuring such a certification is correct. While legal practitioners receive legal fees for administering estates, including obtaining grants of probate, we do not see how the receipt of legal fees could create a conflict of interest, particularly in view of the overarching fundamental ethical duties of legal practitioners. These duties include acting in their client's best interests, a restraint on receiving any benefit which exceeds the solicitor's fair and reasonable remuneration for legal services provided, not engaging in dishonest conduct, and the ongoing requirement they remain vigilant in their dealings to avoid conflicts of their own interests.

We therefore, wish to clarify the reasoning behind this policy and its application by ATO officers with a view to ascertaining a suitable working solution for the legal profession. Members of our Succession Law Committee and our Ethics and Practice Centre would be pleased to meet with you to discuss this matter.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.



Genevieve Dee
President