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ATAINZ RULES – MARCH 2018

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1. NAME

1.1 The name of the society is the “Accountants and Tax Agents Institute of New Zealand Incorporated” (hereafter referred to as “**ATAINZ**”).

2. OBJECTS

2.1 ATAINZ’s objects are:

- a) to foster tax knowledge in New Zealand
- b) to further and develop tax practice in New Zealand
- c) to represent ATAINZ members in New Zealand
- d) to maintain the highest standards among ATAINZ members by restricting Membership to suitably qualified people
- e) to consider, initiate, debate and make submissions on New Zealand tax laws
- f) to provide bursaries and scholarships for education
- g) to provide prizes for examinations and essays or papers on taxation
- h) to publish or broadcast material that furthers these objects
- i) to provide information to Members
- j) to seek recognition and financial support to further these objects
- k) to federate with, affiliate with, or act in conjunction with other institutes and associations, and appoint representatives to any such associations
- l) to provide premises for ATAINZ work and meetings
- m) to employ staff and agents
- n) to establish branch offices and committees
- o) to buy, sell, lease, alter and maintain land, buildings or other property as the Board sees fit
- p) to raise or borrow money, repay borrowings, invest, and otherwise manage ATAINZ finances as the Board sees fit
- q) to do anything else that, in the view of the Board, furthers ATAINZ’s objects
- r) to provide benefits and resources to members through associations.

3. MEMBERSHIP

Application for Membership

3.1 Applications for Membership must be made via the online application process on the ATAINZ website to the Board.

Approval of Membership

3.2 Approval of all grades of membership shall be at the sole discretion of the Board. The Board may decline membership on any grounds whatsoever and no correspondence shall be entered into.

Requirements to comply with Rules and Code of Ethics

3.3 All Members of the Institute and any entities through which they trade through as key office holders or tax agents are bound by the Rules of the Institute and its Code of Ethics.

Membership Subscriptions

3.4 All Members must pay subscription fees as determined by the Board. The fees must be paid annually for the financial year ending the 31st October in each year, and are due on the 1st November of each year, with the first fee due in the financial year within which Membership was granted.

Types of Membership

3.5 ATAINZ offers the following Memberships:

- Professional Tax & Business Adviser (PTBA)
- Associate Tax & Business Adviser (ATBA)
- Retired Member
- Fellow
- Student Member

3.5.1 Professional Tax & Business Adviser (PTBA)

To become a Professional Tax & Business Adviser (PTBA) a person must be a New Zealand resident as defined under the Immigration Act 2009 (and subsequent amendments) and must be a practicing Tax Agent as defined by the Taxation Administration Act.

A Professional Tax & Business Adviser (PTBA) must:

- a) Have been an Associate Tax & Business Adviser (ATBA) for the preceding two years, and have completed all Continuing Education requirements during that time, or
- b) Have a New Zealand degree or equivalent qualification in accounting, or in business studies, and has completed a tax unit as part of that course and has a minimum of 3 years experience in their own tax practice, or
- c) Otherwise satisfies the Board that he or she has sufficient qualifications and experience to become a Professional Tax & Business Adviser (PTBA).

Professional Tax & Business Advisers (PTBA) shall:

- a) Comply with ATAINZ's Continuing Education requirements, and
- b) Be subject to Practice Reviews.

Professional Tax & Business Advisers (PTBA) shall have voting rights and will be eligible to hold a position on the Board of ATAINZ.

3.5.2 **Associate Tax & Business Adviser (ATBA)**

To become an Associate Tax & Business Adviser (ATBA) a person must be a New Zealand resident as defined under the Immigration Act 2009 (and subsequent amendments) and must:

- a) Have a New Zealand degree or equivalent qualification in accounting or in business studies, or
- b) Have an appropriate New Zealand recognised tertiary qualification, or
- c) Otherwise satisfies the Board that he or she has sufficient qualifications and expertise to become an Associate Tax & Business Adviser (ATBA).

Associate Tax & Business Advisers (ATBA) shall be required to comply with ATAINZ's Continuing Education requirements.

Associate Tax & Business Advisers (ATBA) shall have voting rights and will be eligible to hold a position on the Board of ATAINZ.

3.5.3 **Retired Members**

Retired Members must have retired and shall not be practicing Tax Agents.

Retired Members are not required to comply with ATAINZ's Continuing Education requirements.

Retired Members shall not have voting rights, nor will they be eligible to hold a position on the Board of ATAINZ, but may be co-opted to the Board for special projects without Board voting rights and can be a member of the Practice Review and or Disciplinary Committee.

3.5.4 **Fellow**

A Fellow is any Professional Tax & Business Adviser (PTBA) or Associate Tax & Business Adviser (ATBA) who:

- a) Has consistently displayed acumen, integrity and proficiency in taxation matters, or delivered exceptional service to ATAINZ over an extended period of time, and
- b) Has been nominated and seconded in writing by a minimum of two Members, and
- c) Been confirmed by the Board, and
- d) After notice of the nomination has been forwarded to all Members, has been elected to the position of Fellow by a majority of Members at an AGM that both the Fellow Nomination and the member nominating are present at.

A Fellow shall retain all the rights of a Professional Tax & Business Adviser (PTBA) or an Associate Tax & Business Adviser (ATBA).

3.5.5 **Student Member**

Student Membership is open to any New Zealand Resident as defined under the Immigration Act 2009 (and subsequent amendments) currently studying Accounting or Business Studies (full or part time) at a New Zealand approved tertiary institution, and has paid the Application Fee.

A person may only be a Student member for a maximum of 5 years, but may be extended with Board approval.

Student members are not required to comply with ATAINZ's Continuing Education requirements but must complete an Annual Study Declaration.

Student Members shall not have voting rights, nor will they be eligible to hold a position on the Board of ATAINZ, but will be eligible to be co-opted to the position of Student Representative on the Board if required.

3.5.6 **Transitional Provisions**

Financially current and existing ATAINZ Qualifying and Provisional members as at the date of the 2018 Annual General Meeting will automatically transition to become Associate Tax & Business Advisers (ATBA), unless they have applied to and been accepted by the ATAINZ Board to become a Professional Tax & Business Adviser (PTBA).

3.6 Fees: (exclusive of GST)

A fee shall be charged with an application for Membership. This fee is determined by the Board and may be waived by the Board in special circumstances.

Retired Fee shall be set at 25% of the Full fee.

No refund of fees shall be given to members who resign from the Institute.

A Member whose annual fees or any other payment remains unpaid more than three months after they have fallen due in any year shall not be entitled, until full payment has been made, to attend any meetings of the Institute or its regions, or to receive any notice, publications or other services of the Institute.

3.7 A Member may use: member of ATAINZ – Professional Tax & Business Adviser (PTBA) or Associate Tax & Business Adviser (ATBA), after his or her name.

A Fellow may use: Professional Tax & Business Adviser (PTBA - Fellow) or Associate Tax & Business Adviser (ATBA - Fellow), after his or her name.

A Retired member may use: Professional Tax & Business Adviser (PTBA - Retired) or Associate Tax & Business Adviser (ATBA - Retired), after his or her name.

Ending Membership

3.8 Membership is terminated if:

- a) The Member resigns in writing, identifying his or her reason for resignation and provided that where at the time of resignation: Any monies are owing or due to ATAINZ, then such amounts shall continue to be due and owing as a liquidated debt, notwithstanding such resignation; and
- b) Any Member is the subject of a complaint or investigation regarding a breach of the Code of Ethics or the subject of disciplinary proceedings, then termination of Membership shall not occur until the earlier of:
 - a. Board passing a resolution accepting termination, or
 - b. Any complaint or investigation being completed in accordance with paragraph 14 hereof, and any monies due by the Member, whether on account of subscriptions, fines or costs, being paid in full to ATAINZ.
- c) The Member has been declared bankrupt, or
- d) The Member has been convicted of a criminal offence involving dishonesty, fraud or
- e) The Board resolves to end the Member's membership.

Certificates of membership shall remain the property of the Institute and their return may be requested by the Board on a person ceasing to be a member, or when a member is admitted to a different grade of membership.

3.9 In considering whether to end a Membership, the Board may consider:

- a) Whether the Member's subscription fees are paid.
- b) Whether the Member has complied with these Rules and with the Code of Ethics.
- c) Whether the Member has complied with ATAINZ Continuing Education requirements.
- d) The outcome of any Disciplinary Hearing, and
- e) Any other matter that, in the Board's view, is relevant to the Member's suitability for Membership.

Suspending Membership

3.10 The Board may suspend a Member's Membership. In considering whether to suspend a Membership, the Board may consider any of the factors referred to in paragraph 3.9 above.

Register of Members

3.11 ATAINZ will keep a Register of Members. The register will contain the name and full contact details of all current members, the dates on which they became Members and type of membership held.

3.12 Whenever the registrar of Incorporated Societies requires it, ATAINZ will provide the Registrar with a copy of the register, accompanied by a statutory declaration by the ATAINZ Chairperson or Chief Executive Officer verifying the register.

4. PAYMENTS TO MEMBERS

4.1 No Member or person associated with a Member may receive any income or other financial benefit or advantage from ATAINZ except:

- a) Fees for professional services charged at a standard market rate, or
- b) Interest, at no greater than the market rate, on money lent.

4.2 No member or person associated with a Member may under any circumstances receive any income or financial benefit or advantage from ATAINZ if the Member is in a position to influence that income, benefit or advantage.

5. REGISTERED OFFICE

5.1 ATAINZ will have a registered office where communications may be addressed. The Registrar of Incorporated Societies will be informed of the location of that office.

6. GENERAL MEETINGS

Calling a General Meeting

6.1 An Annual General Meeting will be held in each calendar year, no more than 15 months after the previous Annual General Meeting.

6.2 A Special General Meeting will be held at any time, on the written request of either three Members of the Board or 20 Members.

6.3 Members will be given 28 days' notice of any General Meeting. The notice will explain the nature of business to be dealt with at the meeting.

6.4 Subject to paragraph 6.1, 6.2 and 6.3, the Board will determine the specific date and venue for each General Meeting and business of an Annual General Meeting.

6.5 The business of every Annual General Meeting will be to:

- a) Receive the Board's Annual Report, and
- b) Receive Reviewed Annual Financial Statements of Income and Expenditure and assets and liabilities for ATAINZ, and
- c) Elect members to the Board, and
- d) Appoint a Reviewer, and
- e) Carry out any other business included in the Notice of Meeting referred to in paragraph 6.3 above.

General Meeting Procedures

6.6 Any Member who has paid subscription fees for the year in which a General Meeting takes place is entitled to vote at that meeting. Each Member will have one vote.

6.7 A General Meeting may only carry out business if at least five Members are represented either in person or by proxy. If, 30 minutes after the meeting's scheduled start, there are fewer than five Members present:

- a) The meeting will be dissolved if it is a General Meeting called at the request of Members, or
- b) The meeting will be adjourned to a time and venue determined by the Members who are present if it is an Annual General Meeting or a Special General Meeting called by Members of the Board.

If a meeting is adjourned with (b) above, and fewer than five Members are present when the meeting is reconvened, the meeting may carry out business.

6.8 The Chairperson will chair any General Meeting. If the Chairperson is absent, the meeting may choose the Vice-Chairperson as chair. If the Vice-Chairperson is absent, the meeting may choose another Board Member as chair.

6.9 All decisions other than amendments to the Rules will be made by simple majority. Voting will be carried out in a manner determined by the chair. If votes are tied, the chair will have a casting vote.

7. AMENDMENTS OF RULES

7.1 Subject to Section 21 of the Incorporated Societies Act, these Rules may be amended if at least three-quarters of the Members, who attend or are represented by proxy at an Annual General Meeting or Special General Meeting, vote to do so.

7.2 No proposal to amend section 4 (payments to Members) or section 15 (winding up) can be put before an Annual General Meeting unless it has first been approved by the Inland Revenue Department.

8. THE BOARD

8.1 The Board is made up of:

- a) The Chairperson
- b) The Vice-Chairperson
- c) Any number of other Members elected at an Annual General Meeting (or their deputies)
- d) Any number of other Members co-opted by the Board.

Eligibility to be a Member of the Board

8.2 Only Members are eligible to be Members of the Board.

8.3 Any Member who has not paid his or her subscription fees for a particular calendar year is not eligible to be elected or appointed as a Member of the Board during that year.

Election of the Board

8.4 The term of office for any Board Member is to be a fixed period of two years. The maximum term in consecutive office for the elected Board, (either as Vice-Chairperson and or Board Member), shall be no more than six years in total.

The position of Chairperson shall be elected annually from the existing Chairperson and Board Members elected into office at the previous year's Annual General Meeting. The maximum term in consecutive office as Chairperson shall be no more than six years in total.

Board Members are elected at each year's Annual General Meeting.

- 8.5 Any candidate for a position on the Board must be nominated in writing by at least two other Members. The candidate must sign his or her nomination. The nomination must be received by the Chief Executive Officer at least 14 days before the Annual General Meeting at which the election will take place.

Validity of Board Actions

- 8.6 All acts by the Board and by any committee the Board has established any by any Member of the Board will be held to be valid even if it is discovered that there is a defect in the election of one or more Members of the Board.

Eligibility for re-election

- 8.7 Subject to 8.2, 8.3, 8.4 and 8.5 above, any Member elected to the Board may be re-elected.

Board may appoint Deputies

- 8.8 Any Board Member who is unable to carry out his or her duties may appoint a deputy, subject to approval by the Board.

The appointment must be made in writing, and may be either for a fixed period or for an indefinite period up to the next Board election. The deputy may act on the Board Member's behalf, carrying out all of the Board Member's duties and using all of the Board Member's powers.

The Board Member can remove the deputy and resume his or her position on the Board at any time. This must also be done in writing.

Board may co-opt Members

- 8.9 The Board may co-opt Members. The elected Members of the Board may remove a co-opted Member at any time. Any Member who is co-opted may serve only until the next election is held.

Board Vacancies

- 8.10 If fewer than three Board Members remain in office, the Chief Executive officer must call a Special General Meeting. The Special General Meeting must elect a new Board, which will serve until the next Annual General Meeting.

Roles and Powers of the Board

- 8.11 The Board's role is to manage ATAINZ in accordance with the objects referred to in Section 2. It may take any action it sees fit in order to achieve those, so long as the action is lawful and not inconsistent with these Rules or any resolution of a General Meeting.
- 8.12 Without limiting paragraph 8.9, the Board may:
- a) Establish committees, including branch committees, and delegate powers to those committees.
 - b) Delegate powers to ATAINZ officers.
 - c) Make and amend a Code of Ethics, Disciplinary Procedures, Continuing Education requirements, Policies and Procedures, and other requirements or guidelines for Members.
 - d) Make decisions about ATAINZ finances and property, including decisions to borrow or raise money.
 - e) Make decisions about remuneration for the Reviewer and other officers.
 - f) Impose sanctions on Members for breaching ATAINZ's Rules or Code of Ethics, including imposing fines, requiring Members to pay compensation to clients or cancel unpaid fees, formally censuring Members, ending or suspending Membership subject to 3.3, 3.14 and 3.15 above, or imposing any other sanction that in the Board's view is reasonable under the circumstances.

Roles and Powers of the Chairperson

- 8.13 The Chairperson is responsible for:
- a) Carrying out ATAINZ policy and decisions.
 - b) Employing, supervising and terminating the employment of staff and contractors.
 - c) Having the custody of ATAINZ books, papers and documents.
 - d) Preparing the Chairperson's Annual Report.
 - e) Taking any other action required by a General meeting or the Board.
 - f) That in the event of the unavailability of the Chairperson, the Vice-Chairperson shall take the role of acting Chairperson.

9. OFFICERS

9.1 The officers of ATAINZ are:

- a) All Members of the Board
- b) The Chief Executive Officer
- c) The Reviewer

Election and Appointment of Officers other than Members of the Board

9.2 The Board appoints the Chief Executive Officer. The Chief Executive officer holds office until he or she resigns in writing or the Board removes him or her from office.

9.3 The Reviewer is elected at each year's Annual General Meeting and holds office until the next Annual General Meeting. A Reviewer appointed at one Annual General Meeting may be re-elected at the next Annual General Meeting. If the position becomes vacant between General Meetings, the Board may appoint a reviewer to serve until the next General Meeting, at which a new election must be held.

Role of the Chief Executive Officer

9.4 The Chief Executive Officer is responsible for:

- a) Notifying any person who is elected or appointed as an officer.
- b) Notifying Members of any General Meeting.
- c) Notifying Board Members of any Board Meeting.
- d) Notifying Committee Members, other than Members of branch committees, of meetings of any committees they are Members of.
- e) Keeping the Register of Members referred to in paragraph 3.16.
- f) Keeping a record of proceedings of all meetings of the Board and committees, other than branch committees.
- g) Keeping a record of attendance at all meetings of the Board and committees, other than branch committees.
- h) Banking or causing to be banked all money received by ATAINZ.
- i) Paying out ATAINZ funds in accordance with Board decisions.
- j) Fulfilling the role of Treasurer, which includes keeping ATAINZ's books of account and preparing its annual statements of income and expenditure and assets and liabilities in accordance with paragraphs 12.3 and 12.4
- k) Taking any other action required by a General Meeting or by the Board or the chair of any meeting.

Role of the Reviewer

9.5 The Reviewer's role is to thoroughly review the statements referred to in paragraph 12.4 and report in writing to Members, giving an opinion on whether the statements are a true and fair reflection of ATAINZ's affairs.

9.6 ATAINZ will give the Reviewer access at reasonable times to all documents he or she needs to carry out this role, and ATAINZ officers will comply with all reasonable requests from the Reviewer for information or assistance.

Indemnity of officers

9.7 Every Member of the Board of the Accountants and Tax Agents Institute of New Zealand Incorporated and every officer and employee of the Institute shall be indemnified by the Institute from and against all losses and expenses incurred by him/her by any reason of any pact, contract entered into, or action, or deed done by him/her as such, in the course of their duties on behalf of the Institute, except where such losses and expenses are incurred as a result of her/his own willful act or omission.

10. MEETINGS OF BOARD AND COMMITTEES

Decisions by Majority

10.1 Decisions at all meetings of the Board, and of any committees that the Board establishes, will be made by a simple majority of votes. If votes are tied, the chair will have a casting vote.

Board Meetings

10.2 The Board may meet at any time and carry out its business as it sees fit.

10.3 Meetings of the Board will be chaired by the Chairperson. If the Chairperson is absent or declines to chair the meeting, Board Members must choose a vice Chairperson to chair the meeting. If there is no Vice Chairperson present, or the Vice Chairperson declines to chair the meeting, the Board Members present must choose another member to chair the meeting.

10.4 No business may be conducted at any Board Meeting if fewer than three Members of the Board are present.

Committee Meetings

10.5 In establishing a committee, the Board may determine who its Members will be, who will chair it, what business it will consider, its quorum, and any other matter to do with the committee's procedures and business.

10.6 If the Board has not named a chair, a committee must elect a chair from among its Members.

- 10.7 Committees may meet at any time and carry out their business as they see fit, subject to any Board decisions.

11. COMMON SEAL

- 11.1 The Chief Executive Officer will have custody of the Common Seal.
- 11.2 The Common Seal must not be affixed to any contract or other instrument except when:
- a) The Board has passed a resolution requiring it to be, and
 - b) One Member of the Board and the Chief Executive Officer or another person nominated are present and sign the instrument to which the Common Seal is affixed.

12. FINANCES

Cheques and Payment

- 12.1 All cheques and payments must be signed or endorsed in such a manner as the Board directs.

Borrowing and Investment

- 12.2 All borrowing or investment must be carried out in accordance with the Board's direction.
- The funds of the Institute shall be under the control of the Board. Any funds held by the Institute may be invested in the name of the Institute from time to time in any investment that would be undertaken by a prudent trustee in accordance with the provisions of the Trustee Act 1956. Any investment may from time to time be varied or transposed provided that it continues to comply with the requirements in the Trustees Act 1956.

Books and Financial Statements

- 12.3 ATAINZ will keep accounts which are a true and fair reflection of its affairs, assets and transactions.
- 12.4 At the close of each financial year, and at any other time the Board decides, ATAINZ will have a statement of income and expenditure and a statement of assets and liabilities prepared. These annual financial statements will be reviewed by the ATAINZ Reviewer.
- 12.5 Whenever required by the Registrar of Incorporated Societies, ATAINZ will deliver to the Registrar:
- a) The reviewed statement of income and expenditure for the last financial year.

- b) The reviewed statement of assets and liabilities for the last financial year.
- c) A statement providing details of all mortgages, charges and other securities of any description affecting any ATAINZ property at the close of the last financial year.

These statements will be accompanied by a certificate signed by the Chief Executive Officer or, in his or her absence, another ATAINZ officer, to the effect that the statements have been approved by a General Meeting.

13. NOTICE

13.1 Any notice required under these Rules is deemed to have been given to a Member 24 hours after it has been posted to him or her, or immediately after it has been delivered to him or her, at the address listed in the Registrar of Members.

13.2 The loss or non-delivery of a notice to a Member will not invalidate or prejudice any ATAINZ election or decision.

14. CODE OF ETHICS AND DISCIPLINARY PROCEDURES

14.1 The rules of professional conduct for Members of ATAINZ are contained in the Code of Ethics.

14.2 The Board may amend the Code of Ethics and Disciplinary Procedures as it sees fit. No amendment will bind any member until he or she has received notice of the amendment.

14.3 A Member shall be deemed to have received notice in terms of the preceding paragraph 14.2 if any amendment to the Code of Ethics is posted to the last known mailing address of the Member, as advised by the Member to ATAINZ.

14.4 Any alleged breach of these Rules or of the requirements contained in the Code of Ethics must be dealt with according to the Disciplinary Committee.

14.5 The Board may amend the Disciplinary Procedures as it sees fit.

15. USE OF ATAINZ NAME AND LOGO

15.1 Except as allowed under 3.7, Members may not refer to their Membership of ATAINZ or use ATAINZ's name, initials (ATAINZ), crest or logo in advertising unless they have first obtained written permission from the ATAINZ Board. Refer to Branding Guidelines in the Policies and Procedures of ATAINZ.

16. CONTINUING EDUCATION

- 16.1 ATAINZ Members other than retired or Student Members must comply with ATAINZ's Continuing Education requirements.
- 16.2 It is the responsibility of the Board to set the Annual Continuing Education Points requirement and also the allocation of Continuing Education Points to Formal and Informal activities.

Random Audits

- 16.3 ATAINZ Members other than Retired or Student Members will be subjected to Random Audits as regards their Continuing Education Points. These Audits will require confirmation of attendance at Formal Activities and proof of completion of Informal Activities.

Failure of a Member to obtain the required Annual Continuing Education Points may result in their Membership to ATAINZ being suspended or terminated, subject to Board consideration.

17. WINDING UP

- 17.1 ATAINZ may be wound up voluntarily if:
- a) A General Meeting passes a resolution requiring it to be wound up, and
 - b) Another General Meeting, called at least 30 days later for the specific purpose, confirms the previous meeting's winding up resolution.
- 17.2 If ATAINZ is wound up, no property or assets may be distributed to Members under any circumstances, either directly or indirectly. Any property or assets left after costs and debts are paid must be transferred to any organisation within New Zealand with objects and purpose similar to ATAINZ's. A General Meeting that resolves to wind up ATAINZ may pass a resolution stating which organisation within New Zealand will receive ATAINZ's property and assets. If no resolution is passed to this effect, a Judge in the High Court may decide which organisation receives ATAINZ's property and assets.

18. DEFINITIONS

For the purposes of interpreting these Rules and any schedules to these Rules, the following definitions apply:

Act	the Incorporated Societies Act 1980.
Chair	the Chair of any Committee as determined by the Board or by the Committee itself. In the absence of a Chair, the term includes an Acting Chair.

Board	the Board of ATAINZ
Chief Executive Officer	the Chief Executive Officer of ATAINZ and includes an Acting Chief Executive Officer.
Member	anyone who holds Membership of ATAINZ according to Section 3 of these Rules.
Meeting	any forum or medium through which business is conducted, including face-to-face meetings, teleconferences, internet meetings, or meetings using any other technology whatsoever.
Money	Money includes cash, foreign currency, bank deposits, cheques, bills of exchange, promissory notes, and any other instrument that can be paid into a financial institution.
Chairperson	the Chairperson of ATAINZ and includes an acting Chairperson.
Tax Practice	Provision of services relating to tax, financial information, financial advice, insolvency or trusteeship.
ATAINZ	Accountants and Tax Agents Institute of New Zealand Incorporated.
Writing	includes both physical and electronic written communication.