

CRIMINAL FINANCES ACT 2017

Internal Policy “Our zero tolerance to tax evasion and facilitation of tax evasion”

The Criminal Finances Act 2017 introduced two new corporate offences:

- the failure to prevent facilitation of UK tax evasion, and
- the failure to prevent facilitation of foreign tax evasion.

The legislation took effect on 30 September 2017.

This policy applies to all our employees, agents, contractors and any third party who provides services for or on behalf of our business (defined as ‘associated persons under this legislation’).

This policy sets out the background of this legislation and expectations of all our people and other ‘associated persons’ in meeting the requirements of this legislation.

Background

The HMRC Guidance in respect of the CCO legislation states:

“The Government believes that [businesses] should be criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating tax evasion.

The new offences will be committed where a relevant body fails to prevent an associated person criminally facilitating the evasion of a tax, and this will be the case whether the tax evaded is owed in the UK or in a foreign country.”

The legislation applies to all taxes – personal and corporate tax – and includes other taxes such as VAT, Customs Duties, National Insurance Contributions etc.

Criminal prosecution of the business, unlimited financial penalties and reputational damage to the business can result if we fail to comply with this new law (and individuals can be prosecuted for tax fraud or facilitating tax fraud under pre-existing criminal legislation).

What is tax evasion?

Tax evasion involves the deliberate and dishonest use of illegal practices in order not to pay the right amount of tax. This could include not reporting all of your income, deliberately not filing an accurate tax return, hiding beneficial ownership and taxable assets from HMRC or diverting funds to hide income from local taxation authorities.

What is criminal facilitation of tax evasion?

Tax evasion was already a criminal offence at the time this legislation was introduced.

Similarly, it was already (and continues to be) a crime to deliberately and dishonestly facilitate tax fraud for or on behalf of another person.

Real life examples of facilitation of tax evasion could include deliberately and dishonestly changing invoices for customers that could impact the VAT amount, or assisting a supplier in not disclosing income (e.g. through making a payment into an undeclared overseas bank account) or deliberately overstating group cross-border intercompany charges where this may impact the Corporation Tax due either in the UK or overseas.

Responsibility

This legislation creates a new responsibility at the company level such that, if an associated person were to facilitate tax evasion, we may be criminally prosecuted for failing to prevent the facilitation offence.

There would be a defence from prosecution if we are able to demonstrate having reasonable prevention procedures in place to try and prevent this facilitation of tax evasion from happening.

Our approach: Tax evasion and facilitation of tax evasion

Our policy is to have a zero tolerance to tax evasion and facilitation of tax evasion.

This means we expect all our employees and anyone who works for us – e.g. contractors, not to engage in any activity which evades tax or facilitates or may facilitate the evasion of tax by any other person (company or individual). It does not matter whether the taxes are UK taxes or are due to an overseas fiscal authority.

Nor will we engage with any third party (including those who contract with us or otherwise provide services to us) who do not have a similar policy.

Specifically, we expect all employees and associated persons to be able to identify and take steps to prevent any scenarios where there may be a risk that they are facilitating others to commit tax evasion, either in the UK or overseas.

As a group, we support the questioning and eventual declining of business where there are any suspicions of tax evasion or the facilitation of tax evasion.

All cases of suspicion in relation to future or existing business should be first reported (refer to Employee Code of Behaviour in relation to tax evasion) before making any decisions in relation to existing business relationships or committing the business to transact in the manner proposed.

We expect all parties acting with us or for us to adopt a similarly robust approach.

Reporting of suspicions

Tax evasion and the facilitation of tax evasion are criminal acts.

We expect all of our employees to report suspected implications of non-compliance with this policy to their line manager or the Group Finance Director.

For the purposes of your employment, you will be considered to have committed a serious offence if:

- you undertake tax evasion or knowingly facilitate tax evasion whilst acting in your capacity as an employee, or
- you become aware that another associated person of the business (for example, a fellow employee, agent, supplier etc.) has undertaken or is in the process of undertaking tax evasion or facilitating tax evasion, and you fail to report it.

How to report suspicion of facilitation of tax evasion

If you know, or suspect, that tax evasion or the facilitation of tax evasion has taken place, or is taking place, you are required to report it.

Please discuss with your line manager in the first instance or consult directly with the Group Finance Director.