



Economic Crime (Anti-Money Laundering) Levy Clauses 53-66 (Part 3 of the Bill)

Executive Summary

The CIOT and ATT strongly support the UK's drive to combat money laundering and terrorist financing and recognise that funding is required to ensure that there can be an effective policy in place to reduce levels of financial crime. We support the exemption of small firms from the levy and the decision to make HMRC the collection authority. We would not like to see either decision revisited.

CIOT and ATT supervise some of our members for anti-money laundering purposes, but, despite frequent requests, we and they receive very little granular feedback on the impact their reports make. We believe better feedback and wider publicity around successes could help AML-regulated firms to see the value and importance of work in this area more clearly, keeping it at the forefront of their minds.

1 Introduction

- 1.1 The economic crime (anti-money laundering) levy will be paid by firms regulated for anti-money laundering (AML) purposes, including accountancy and law firms, financial institutions, estate agents and casinos.
- 1.2 Qualifying firms will pay the levy as an annual fixed fee based on the size band they belong to, determined by their UK revenue: medium (£10.2m-£36m); large (£36m-£1bn); and very large (more than £1bn). Medium firms will pay £10,000 per annum; large firms £36,000 and very large firms £250,000. Small firms (less than £10.2m in UK revenue) are exempt from the levy.
- 1.3 The levy is intended to raise approximately £100 million per annum to help fund AML reforms and deliver reforms in the Economic Crime Plan. This includes funding for the National Economic Crime Centre (NECC), National Assessments Centre (NAC) and National Data Exploitation Centre (NDEC), as well as to increase staff numbers at the UK Financial

Intelligence Unit. The levy will first be collected in 2023-24, with banding based on the revenue reported in firms' periods of account ending in 2022-23.

- 1.4 The CIOT and ATT strongly support the UK's drive to combat money laundering and terrorist financing and recognise that funding is required to ensure that there can be an effective policy in place to reduce levels of financial crime. It is normal in principle for the costs of a regulatory regime to be borne by the firms that fall to be regulated, ideally by reference to the scale of the 'risk' that gives rise to the need for regulation, so we regard the levy as a reasonable imposition.
- 1.5 The CIOT and ATT are ourselves Anti-Money Laundering (AML) supervisors, with a corresponding responsibility for ensuring that the firms which we supervise comply with relevant rules and regulations (see section 4, below). The levy as now set out in legislation will have minimal impact on our supervised firms because the overwhelming majority will have turnover below the threshold of £10.2 million and therefore will not be liable to pay the levy. HMRC are undertaking the collection of the levy so we expect to have minimal involvement in relation to this aspect. However, we await confirmation of the requirements to be placed on professional bodies in relation to the provision of information to HMRC to assist with the collection and the outreach required to members generally.

2 Scope of the levy

- 2.1 As noted above, AML-supervised firms with a turnover below the threshold of £10.2 million will not be liable to pay the levy. We believe this is the right approach. Some larger firms have argued that everyone in the market should pay something. However, we believe this overlooks the point that across the whole range of AML-related compliance burdens, the smallest firms are already the most disproportionately affected. (Advisers with tiny financial turnovers, who service mainly 'friends and family', but have a few paying clients, are fully within the obligations of the regime: there is no 'de minimis' exemption to AML obligations.)
- 2.2 Increasing compliance costs for small firms in particular would risk:
 - driving out firms of tax advisers from the market thereby reducing choice for consumers (the impact being felt most by smaller businesses who are the typical client base of the smallest firms)
 - increasing the costs of engaging a tax adviser which hits those with complicated tax affairs but low income
- 2.3 This concern is borne out by the impact we witnessed when we increased supervision fees as a result of the earlier 'OPBAS' levy (to finance the creation and operation of the Office of Professional Body Anti-Money Laundering Supervision). At that time the principals of some small firms decided to bring forward retirement plans or ceased to practice. This was on a small scale, but we are concerned that with incremental burdens it is hard to be sure when one reaches a 'tipping point'.
- 2.4 Where members are not driven out of the market altogether by the additional costs associated with the levy we had concerns that they may choose to reduce other costs by resigning from professional body membership. (This factor is often overlooked by

policymakers who tend to envisage professional body membership as being obligatory, as indeed it is for solicitors – but not for tax advisers). Potential implications of this are:

- Firms would become deprofessionalised as they would no longer be required to meet the high professional standards required by professional bodies and could therefore operate, for example, without professional indemnity insurance or continuing professional development ('CPD').
- Deprofessionalism potentially increases the tax gap, both because of the CPD factor and because they would then fall outside professional codes of ethics including provisions against tax avoidance.
- A movement away from professional body membership would also reduce professional body AML supervision and therefore increased numbers of firms requiring HMRC AML supervision. This would impact on HMRC supervision costs.
- Deprofessionalism results in decreased protection for consumers and runs counter to HMRC efforts to improve agent standards.

2.5 There is a tendency sometimes to assess the economic cost of these levies broadly in terms of impact on 'principals' of firms rather than financial levels of fees or on numbers of 'fee-earners' (which we would consider a more reasonable indicator of level of activity and of AML/economic crime risk). However this approach means that the business of a sole trader with fees of maybe tens of thousands of pounds annually, is treated as if it was on the same scale as that of a partner of the largest accounting or law firms, which is leveraged by his or her supervision of many fee-earners, with combined fees of many times that level.

2.6 Imposing a flat rate fee on all small firms would potentially have risked higher collection costs than the amounts collected from the relevant firms – and still represent a disproportionate burden if the policy is based on numbers of principals rather than fee-earners (see above).

2.7 Considering all these factors, in our view it is proportionate that only large firms pay this levy. Levels of revenue can be taken to be broadly indicative of the level of risk as it reflects the scale of the activity of supervised firms. The reliable measurement of risk in any other way is in its infancy and will likely always remain subjective.

3 Collection of the levy

3.1 The levy will be collected by HMRC. There was some debate during consultation about whether it should be collected by professional bodies. In our view this would have been a mistake. Professional bodies do not currently collect tax or other debts due to the government or have the powers that are normally associated with this. HMRC are a collection authority who already hold details of revenue for tax purposes and have the ability to audit this with the stringency that is sometimes required.

3.2 We raise these points because once the new levy is introduced we fully expect pressures to emerge to revisit the decisions that have been made, at least as regards the threshold.

- 3.3 For further detail in relation to our comments please refer to our responses to the Economic Crime Levy consultation.¹

4 Role of CIOT/ATT and other anti-money laundering supervisors

- 4.1 The Money Laundering Regulations set out requirements on the regulated sector which legislators see as key elements in the fight against economic crime. It is the responsibility of the principals in a supervised firm to ensure the firm has AML supervision and complies with the regulations including when taking on clients (due diligence and assessing risk), ongoing monitoring during the client relationship and reporting knowledge or suspicion of money laundering and terrorist financing.
- 4.2 The CIOT and ATT are 2 of the 22 Professional Body Anti-Money Laundering (AML) supervisors set out in the Money Laundering Regulations and supervise 866 and 572 firms respectively. This represents only a small proportion of the CIOT's 19,000 membership and ATT's 9,000 membership. This is largely due to the fact that many of our members are dual qualified as accountants or lawyers and as such their firm is likely to be supervised by the accountancy and legal professional body supervisors. Those we supervise are generally very small firms, often sole practitioners. Around half of them have fee income of £50,000 or less per year.
- 4.3 As AML supervisors it is our responsibility to ensure that tax advisory and accountancy firms run by our members:
- a. understand the AML/CFT (anti money laundering and combating the financing of terrorism) risks facing their business and how to mitigate them; and
 - b. comply with their AML/CFT obligations (do they identify and verify the identity of their clients? do they question the source of funds where appropriate? do they report knowledge or suspicion of money laundering to the National Crime Agency?)
- 4.4 Most of the legislative requirements on firms have to be met whether they are a small one-person practice or a large international firm and whilst they can be tailored to the size of the firm there is a disproportionate impact on the smaller firms which make up the majority of the firms supervised by the CIOT and ATT.
- 4.5 We work with the members we supervise to ensure they are equipped to be compliant. To help achieve this we:
- require completion of a detailed initial registration and subsequent annual renewal form
 - follow up with firms which provide non-compliant answers on these forms
 - run an education/information programme to ensure members understand what their obligations are and are up to date on any changes, including newsletters, webinars, guidance on our website and sessions at our conferences

¹ The ATT response can be read at: <https://www.att.org.uk/technical/submissions/funding-new-government-action-tackle-money-laundering>

The CIOT response can be read at: <https://www.tax.org.uk/funding-new-government-action-to-tackle-money-laundering>

- provide pro forma risk assessment and policies and procedures documents
 - provide a helpline which members access by telephone or by email.
- 4.6 As a supervisor we carry out a programme of visits to check compliance among those we supervise. We focus our efforts on the businesses which present the greatest risks. We judge risk by assessing each firm against a set of criteria such as the type of work undertaken, the turnover, location of offices, prior conduct etc. Visits are also an opportunity to learn about the challenges firms face with AML compliance and to identify particularly good practice which can be shared with other supervised firms.
- 4.7 At the end of a visit the firm is given a compliance rating of compliant, generally compliant or non-compliant. A firm with a generally compliant or non-compliant rating is given an action plan with a deadline of one month to complete the actions. Failure to do so (in the absence of mitigating circumstances) may result in referral to the Taxation Disciplinary Board (TDB) for enforcement action.
- 4.8 It is important to note that an assessment of 'non-compliant' would not mean we have found evidence of money laundering. This refers to money laundering regulations administrative failings (eg failure to have written policies and procedures, inadequate training records, etc). If we come across knowledge or suspicion of money laundering / proceeds of crime in our role as AML supervisors we would ourselves submit a Suspicious Activity Report to the National Crime Agency as appropriate.
- 4.9 We work with other AML supervisors through the Accountancy AML Supervisors' Group (AASG) and AML Supervisors' Forum (AMLSF) together with HM Treasury and the Home Office. We are ourselves supervised and supported by the Office for Professional Body AML Supervision (OPBAS).
- 4.10 Our latest Annual AML Supervision Report (published October 2021) provides more information on our activity in this area.²
- 4.11 The challenge remains that we receive very little granular feedback from law enforcement on areas where the reports made by tax advisers and accountants have had an impact on money laundering or areas where they consider our members should be reporting to them but are not. We regularly ask for this when providing feedback on new initiatives and new legislation. Feedback from our members indicates that they would like to understand more about the impact from the reports they have made as they receive no response from the National Crime Agency in relation to reports and whether they have disrupted economic crime. We believe better feedback and wider publicity around successes could help AML-regulated firms to see the value and importance of work in this area more clearly, keeping it at the forefront of their minds.

5 About us

² The report is available at <https://www.tax.org.uk/ciot-and-att-annual-aml-supervision-report>

5.1 **The Chartered Institute of Taxation**

The CIOT is an educational charity, promoting education and study of the administration and practice of taxation.

Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

The CIOT is an AML supervisory body.

5.2 **The Association of Taxation Technicians**

The Association is a charity and the leading professional body for those providing UK tax compliance services.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has more than 9,000 members and Fellows together with over 6,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.

The ATT is an AML supervisory body.

The Chartered Institute of Taxation
The Association of Taxation Technicians
24 November 2021

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