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30 September 2025

Dan Tomlinson MP
Exchequer Secretary to the Treasury
HM Treasury

Via email: XST@hmtreasury.gov.uk

Dear Minister

Raising Standards in the Tax Advice Market

In our letter dated 11 September 2025 we indicated that we would be writing separately to you about proposed changes in legislation due to be included in this autumn's Finance Bill:

- Closing in on promoters of marketed tax avoidance[1]
- Enhancing HMRC's powers: tackling tax adviser facilitated non-compliance[2]
- Modernising and mandating tax adviser registration with HMRC[3]

We strongly support the objective of raising standards in the tax advice market but we have concerns that the legislation as currently drafted does not achieve what it sets out to do, and will not only fail to tackle poor practice but also risks collateral damage to the tax services market (leading to a potential increase in loss of tax to the Exchequer and detrimental impacts on the UK economy and growth). We envisage additional burdens on competent tax advisers who perform a significant role in ensuring UK taxpayers are compliant and pay the tax due.

One HMRC suggestion has been to address concerns by better signalling through guidance. However, while HMRC guidance is helpful, greater focus and clarity is needed in the legislation itself to ensure HMRC can use it effectively to target poor practice and so tax advisers/agents (and their clients) have certainty about what it means and when it will apply and, equally importantly, when it will not apply. The courts ultimately use the legislation when making decisions – they are not bound to follow HMRC's guidance.

[1] https://www.gov.uk/government/publications/proposals-to-close-in-on-promoters-of-marketed-tax-avoidance/closing-in-on-promoters-of-marketed-tax-avoidance
[2] https://www.gov.uk/government/publications/enhancing-hmrcs-powers-tackling-tax-adviser-facilitated-non-compliance
[3] https://www.gov.uk/government/publications/modernising-and-mandating-tax-adviser-registration-with-hmrc

We would like to offer our support, along with a number of recommendations, including:

- A meeting with you to discuss our concerns about the legislation as drafted.
- A delay in the introduction of all measures to permit time for us to work with HMRC to enable co-creation on the wording of the legislation and practical implementation so that it meets policy requirements. In particular, we consider that the registration of tax advisers needs deferring until April 2027 to enable the concerns to be addressed and still leave time for those who need to take action to register to be aware of the requirements with certainty and be able to do so.
- If the timetable for introduction cannot be amended we would appreciate a commitment that senior HMRC staff and lawyers will review the legislation, engage with us (and other stakeholders) and share further drafts of the legislation as is it developed prior to Budget Day. Amending the legislation based purely on consultation responses and discussions without further scrutiny ahead of presentation on Budget Day risks unforeseen consequences – particularly as the current drafts require consideration of how they apply in a commercial context, which is, we believe, not well understood by policymakers. We would therefore request that copies of updated documents are circulated to stakeholders before Budget Day to enable co-creation to take place effectively.

The CIOT recognises there are rogue agents and malicious actors in the tax services market but we are concerned that the legislation as drafted will not give HMRC the tools they require to address their policy aims, whilst at the same time potentially causing distortions and collateral damage in the market. The draft registration legislation imposes potentially unworkable conditions for all sizes of firms, makes HMRC a de-facto regulator (giving it a significant conflict of interest) and provides HMRC with unfettered powers to deregister agents without adequate safeguards. The definition of 'deliberate conduct' in the tackling tax adviser facilitated non-compliance legislation is likely to deter the provision of tax services where the meaning of complex tax legislation is unclear or where the potential tax liability is high.

We acknowledge the considerable expertise of HMRC staff and their detailed understanding of the difficulties in using current legislation to tackle problems but we consider it is important that the commercial aspects of the legislation are further considered. It is arguably worse to capture 'good actors' within a criminal sanction, for example, or for people not to have clarity over whether certain rules apply to them, than for legislation to be widened, if necessary, later on. These are real risks given the breadth and poor targeting of the current drafting.

As acknowledged at the HMRC Stakeholder Conference, co-creation of solutions with industry experts is an important way forward to ensure effective solutions to problems are put in place. CIOT input enables us to share industry views on how to make the legislation work so that bad actors can be tackled effectively whilst ensuring there is no disincentive for good quality tax services to be provided. Our members are required to uphold high professional standards and they see it as being in their interests to ensure bad actors are removed from the market.

We submitted detailed responses covering aspects in relation to each set of legislation, including several policy recommendations which we believe could help HMRC. A high-level summary of our concerns and suggested improvements are included in **Appendices One to Three** of this letter. If these are not addressed we consider there is a likelihood that:

- The scope of the legislation will be too wide and insufficient safeguards will be included.
- There will be distortions created in the tax advice market as:
    - competent tax experts within the market may choose not to do work which exposes them to the risk of inadvertently getting caught by the broad proposals;
    - bad actors will be out of scope and able to continue their poor practices;

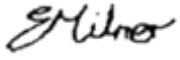
- some taxpayers will be further deterred from using advisers whose work is not protected by legal privilege, given the ease with which HMRC will be able to access advisers' clients' confidential files via file access notices even where the client is themselves not under investigation; and
- Professional Indemnity Insurance premiums may increase for those advising or defending taxpayers (including helping them file returns) in areas where the law is unclear and differences of opinion with HMRC are likely. These increased costs, and the costs of complying with the proposed legislation, may drive tax advisers out of the market. This is contrary to the government's modern industrial strategy which identifies professional services as an area in which to encourage growth.
- If advisers exit the market the void may be filled by more firms based overseas, not required to register or subject to professional privilege potentially leaving HMRC less able to enforce standards than they can in the current marketplace.

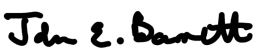
- Taxpayers have the right to choose to have an adviser to assist them. If fewer advisers are available to provide work on a cost-effective basis then taxpayers may have little choice but to undertake the work themselves. In complex areas of tax this is likely to increase non-compliance or underpayment of tax, increase the tax gap and increase the compliance work that HMRC must do.
- These measures and HMRC's conflict of interest (caused by Condition B of the agent registration legislation) will reduce public/taxpayer trust and confidence in the UK tax system. This may damage the attractiveness of UK plc to inward investment and thus detrimentally affect growth and the UK economy.

In line with our normal practice, we intend to publish this letter, and any response, on our website (tax.org.uk). As mentioned above, we would welcome the opportunity to meet to discuss the issues. We look forward to hearing from you shortly and to moving matters forward swiftly prior to Budget Day.

Further information about the Chartered Institute of Taxation is available in **Appendix Four**.

Yours sincerely





Ellen Milner
Director of Public Policy

John Barnett
Chair Technical Committee

Appendix One – Draft Finance Bill 2025-26 – Proposals to close in on promoters of marketed tax avoidance

The CIOT comments on the draft Finance Bill legislation are available in full on the CIOT website via the following link:

Draft Finance Bill 2025-26 Proposals to close in on promoters of marketed tax avoidance | Chartered Institute of Taxation[4]

Key points:

- We have significant concerns about the negative impact that the breadth of this measure, as it is currently drafted, could have on the tax services market. Without refinement, it could result in a distortion of the market, whereby tax advisers will withdraw from giving certain types of advice deeming the risk of potentially being liable to a criminal offence too great. The criteria for schemes to be disclosed under the Disclosure of Tax Avoidance Scheme (DOTAS and DASVOIT) regimes are intentionally vague and broadly drafted, so it is possible for legitimate tax planning to be inadvertently within scope. Vague criteria are not suitable as a basis for a criminal offence and may make it harder for the Crown Prosecution Service to convince a jury to convict a person.
- Criminalising a failure to notify under DOTAS and DASVOIT , rather than criminalising the creation of tax avoidance schemes which are abusive, means the incorrect behaviour is being classified as criminal behaviour (although we recognise that HMRC are trying to use DOTAS and DASVOIT as a tool to reach the bad actors).
- The scope of the criminal offence needs to be narrowed to target the offence at the small number of promoters of marketed tax avoidance that remain in existence and to give certainty to advisers who are not the target of the legislation, reducing the chance of inadvertent and undesirable consequences.

Improvements required to the legislation:

- The legislation must not be retroactive and should make it clear that it only applies to activity post Royal Assent.
- The scope should be narrowed through the inclusion for notifiable arrangements to be 'avoidance' arrangements (taking the wording from HMRC's Standard for Agents[5]) so as not to capture normal tax planning. If it is not narrowed, advisers will err on the side of caution and HMRC could receive thousands of additional protective disclosures of little value or advisers will simply cease providing tax services in relation to some areas of tax.
- The reasonable excuse defence could be improved by the additional defence of businesses being required to have 'reasonable procedures' in place. Reasonable excuse works well for smaller firms and sole practitioners whereas reasonable procedures works better for larger firms where senior managers may be removed from the actual work undertaken. Having a defence like this would not slow down HMRC from being able to act but would also enable firms to quickly show that they are not guilty.
- Connecting the liability to 'senior managers' lacks clarity, potentially bringing large numbers of individuals within scope. The legislative definition must be clear as to which part of the firm HMRC is targeting. Explanations in guidance are insufficient given this is a criminal offence and the criminal court will not heed HMRC's guidance. Consideration should be given to narrowing the definition to focus on the responsible tax individuals in a firm. A single named individual in a firm, such as the Head of Tax, could be held accountable(in the same way as the Money Laundering Reporting Officer operates for anti-money laundering requirements).

[4] https://www.tax.org.uk/ref1549

[5] HMRC Standard for Agents – ie demonstrably setting out 'to achieve results that are contrary to the clear intention of parliament in enacting relevant legislation' and 'are highly artificial or highly contrived and seek to exploit shortcomings in the relevant legislation'.
https://www.gov.uk/government/publications/hmrc-the-standard-for-agents/the-hmrc-standard-for-agents#the-standard

- With regard to Universal Stop Notices (USNs), clarity is needed to ensure that firms can understand which specified arrangements are banned from promotion and greater protection is needed in relation to potential civil penalties - which could be achieved by giving the option to appeal to the First Tier Tribunal or giving 90 days for representations to be made.
- Commercial requirements need to be reflected in the legislation in relation to promoter action notices (PANs) to ensure businesses cannot be sued by promoters for complying with a PAN and to ensure that businesses can obtain professional advice in relation to the PAN and how to comply with it.
- The time limits for action as set out in the legislation should be lengthened to ensure advice can be taken.
- Publication of details of businesses for non-compliance with a PAN will have serious consequences to their business. The legislation should therefore be amended to make it clear no publication will take place until the end of the relevant appeal period.

Appendix Two - Draft Finance Bill 2025-26 Enhancing HMRC's powers: tackling tax adviser facilitated non-compliance

The CIOT comments on the draft Finance Bill legislation are available in full on the CIOT website via the following link:

Draft Finance Bill 2025-26 Enhancing HMRC's powers: tackling tax adviser facilitated non-compliance | Chartered Institute of Taxation[6]

Key points:

- The legislation as drafted does not sufficiently target the poor actors in the tax services market while imposing a number of burdens on good actors seeking to comply.
- The wording used to define 'deliberate conduct' needs to be reconsidered as it does not appear to require the tax agent to know that what they are doing is wrong. It is a concern that the measure, as currently drafted, could encompass legitimate legal interpretation issues (which inevitably stem from complex tax legislation) as well as dishonest/fraudulent behaviour and meritless technical arguments. The wording of the legislation must be clear to avoid unintended consequences.
- The wide scope of the legislation means firms may struggle to obtain professional indemnity insurance (PII) at a reasonable price or at all. Firms may consider it too risky to advise on matters where tax law is unclear, particularly where large amounts of tax are at stake. This may reduce the advice available, particularly to large businesses and high net worth individuals. Increased PII premiums will increase the cost of tax services for those with straightforward tax affairs as well, some of whom may no longer be able to afford advice and will have no choice but to try to deal with their tax affairs themselves. The result may be increased errors in tax returns and a larger tax gap for HMRC to tackle.
- Greater safeguards are needed and there should be a level planning field between legal advisers and tax advisers. HMRC can obtain access to advisers' clients' confidential files under the new 'reason to suspect' test, which is a lower bar than previously, even where the client is not under suspicion, but not where those files are protected by legal privilege.
- Penalties for deliberate conduct appear disproportionate and lack connection to the firm, as they are based on clients' tax rather than the adviser's fees.
- Independent oversight and safeguards are needed in relation to the potential publication of tax agents' details.

Improvements required to the legislation:

- The legislation should make it clear that non-compliance occurring before Royal Assent is not in scope.
- Consideration should be given to amending the title of the legislation to 'Deliberate Misconduct of Agents' rather than just referring to 'deliberate conduct'.
- The tax agent definition here and the tax adviser definition in the legislation on the registration of tax advisers needs to be reviewed. The definition of tax agent differs from the anti-money laundering legislation and that in the tax advisers' registration legislation. Consistency should be applied or explanations provided for different definitions.
- The definition of deliberate conduct must be revised so that it does not encompass legitimate technical arguments, but does encompass the behaviours outlined in HMRC's policy document. The CIOT's submission (link above) makes several suggestions for alternative wording for the legislation.
- The processes for conduct notices and file access notices should be reviewed to ensure the wording is clear on the process. A request for records cannot be made where there are privileged communications between advisers and clients and this combined with the lowering of the bar from dishonest to deliberate conduct and the test of 'reason to suspect' may push more taxpayers to seek advice from lawyers. This will reduce HMRC's ability to obtain information and distort the market.

[6] https://www.tax.org.uk/ref1554

- Conduct notices should be automatically rescinded if the adviser successfully appeals against penalties, as the draft legislation removes the right to appeal against a conduct notice itself (given the additional consequences of a conduct notice in other legislation and draft registration legislation).
- Given the broad access granted by a File Access Notice and the low bar created by the new 'reason to suspect' test, the draft legislation should be amended so as to enable the tax agent to make representations direct to the Tribunal and a right of audience at the hearing.
- Tax geared penalties (based on potential lost revenue) are disproportionate and should be replaced with penalties based on fees. Given the potential size of the penalties, firms may be left unable to pay and potential penalties of this nature will impact the PII market with likely increases in premiums.
- Improved safeguards are needed in relation to publication of agent details given the impact publication will have on a firm providing tax services.

Appendix Three - Draft Finance Bill 2025-26 Modernising and mandating tax adviser registration with HMRC

The CIOT comments on the draft Finance Bill legislation are available in full on the CIOT website via the following link:

Draft Finance Bill 2025-26 Modernising and mandating tax adviser registration with HMRC | Chartered Institute of Taxation[7]

Key points:

- If the register is to be introduced to the current timetable then HMRC should review our recommendations and test amendments with stakeholders. Guidance will be needed as soon as possible.
- The CIOT's preferred option is for implementation of the register to be delayed for a year, until April 2027.
- The eligibility criteria for registration (Condition B) give HMRC scope to impose wide ranging standards on tax advisers who interact with HMRC. We view this as introducing unfettered powers and HMRC regulation by the backdoor giving HMRC a conflict of interest and damaging trust in the tax system. Safeguards must be implemented to ensure there is scrutiny of the standards applied.
- Condition B coupled with the draft tackling tax adviser facilitated non-compliance legislation may result in agents feeling hesitant about pursuing legitimate technical disagreements with HMRC on behalf of clients.
- HMRC powers are wide and decision making appears to sit with individual HMRC officers. Comprehensive, transparent oversight and governance need to be introduced.
- The process of transition to the new register is unclear and comes at a time when agents are already likely to be grappling with the new requirements under Making Tax Digital.
- The registration criteria are unworkable and excessive. They will be costly for firms to introduce systems to monitor compliance with them, not least due to the excessively broad scope of the 'senior manager' definition and the condition in relation to tax returns and payment. Some competent firms may consider that the scope and cost of compliance is so much that they will stop providing tax services.
- The registration criteria also fail to satisfy HMRC's public sector equality duty as no allowance is made for those who are late submitting or paying tax due to, for example, health issues.

Improvements required to the legislation:

- The legislation should be amended to give clarity on who HMRC are seeking to target. We have received a number of queries as the scope appears to be very wide in terms of those working within professional practice but it is also unclear how those working in industry will be impacted. The serious implications of being on the register (or removed from it) means this should be spelled out in legislation not left to HMRC guidance.
- The definitions of a tax adviser need to be reviewed as they are not aligned with other definitions such as the anti-money laundering definition and the definition used in the facilitation legislation. They also exclude businesses that should be within scope such as software companies which provide advice (via onscreen prompts and helplines) aiding those filing through their software, charities providing tax compliance assistance and firms providing tax advice (but which do not interact with HMRC).
- Eligibility conditions refer to a 'senior manager' within a business. As drafted the legislation is not targeted to those who control the tax work within a firm. In large firms it could include many hundreds of individuals, including those who do not work in tax at all. It is unclear why this is necessary and whether it is really HMRC's intention. This may cause firms whose tax business is a small part of their overall business to decide to cease providing tax services.
- The CIOT suggest amendments to ensure the legislation is more targeted including the possibility of adopting a similar approach to the anti-money laundering legislation where one individual is responsible for the firm's compliance (a Money Laundering Reporting Officer).
- The eligibility criteria also refer to the tax adviser not having any outstanding tax returns. The legislation should restrict the provisions to UK tax returns only, and include de-minimis provisions to make this workable and satisfy HMRC's public sector equality duty. Given the current definition of those within scope as senior

[7] https://www.tax.org.uk/ref1553

managers large firms would have to ensure hundreds of individuals were compliant or risk losing their registration.

- Condition B in the legislation must be deleted in its entirety unless HMRC has decided (a) that it is willing to regulate UK tax services, contrary to its previous comments in consultation outcomes; and (b) that it accepts the resulting conflict of interest that it will have which will damage trust in the UK tax system. If Condition B remains in the legislation, its scope must clearly set out specifically what standards agents must adhere to. Otherwise agents will not know what the standards are and Tribunals will be unable to handle appeals against this legislation (as they are not bound by HMRC guidance – they use the legislative wording for their decisions).
- The legislation must be updated to include safeguards. At present HMRC can apply any standards.
- The legislation needs to be clear on the responsibilities on HMRC for example in relation to timeframes to approve applications.
- The requirement to notify all clients about removal from the register will have serious implications for businesses. Consideration should be given to only requiring client notification where there is systematic and deliberate conduct and once appeals have been dealt with or appeal time limits have passed.
- The temporary reinstatement provisions are too narrowly scoped and will be unavailable to some firms. HMRC should revise the legislation so that a firm's registration remains in place until the conclusion of all appeals against the decision to remove it.
- Implementation of the register requirements and the transition of existing agents appear unclear and further work is needed to reassure firms that agent access will not be interrupted during the period of transition.

Appendix Four: The Chartered Institute of Taxation

The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 20,000 members, and extensive volunteer network, in providing our response.

The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

The objects of the Institute include:

- to prevent crime and
- to promote the sound administration of the law for the public benefit by promoting and enforcing standards of professional conduct amongst those engaged in the provision of advice and services in relation to taxation and monitoring and supervising their compliance with money laundering legislation.

Raising standards in the tax advice market is therefore at the heart of our aims as a professional body.

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

The CIOT is also one of the author bodies of Professional Conduct in Relation to Taxation (PCRT) which sets the high ethical standards which form the core of the tripartite relationship between tax adviser, client and HMRC. It supports the key role members play in helping clients comply with their tax obligations and their broader responsibilities to society. The guidance in the PCRT is based on five fundamental principles:

- Integrity
- Objectivity
- Professional competence and due care
- Confidentiality
- Professional behaviour

PCRT includes tax planning standards which aim to set out high standards for members when providing tax planning advice.

Disciplinary action in relation to CIOT members is dealt with by the Taxation Disciplinary Board (TDB). The TDB is an independent body that runs the complaints and disciplinary scheme for both the CIOT and ATT.

Our stated objective for the tax systems include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy