



# CORPORATE CRIMINAL OFFENCE FAILURE TO PREVENT THE FACILITATION OF TAX EVASION

## Risk review – your roadmap to compliance

### Your legal obligation

All corporate bodies (including LLPs) and partnerships, regardless of size, have a legal obligation to ensure that 'reasonable prevention measures' are in place to prevent employees and other associates (for example, sub-contractors) criminally facilitating tax evasion while acting on behalf of the business. If an associate is discovered to have criminally facilitated another's tax evasion while acting on behalf of the business, the business is criminally liable to unlimited penalties unless the defence can be mounted that reasonable procedures were in place to prevent the criminal facilitation from occurring.

### Obtain peace of mind and undertake a risk assessment

A risk assessment is fundamental to responding to the legislation. If the risk of criminal facilitation of tax evasion is assessed to be low, it may be that no significant additional measures are required. However, without having undertaken and documented a risk review or notified employees of what constitutes criminal facilitation, businesses may struggle to mount such a defence.

HMRC has the power to issue unlimited fines for businesses that fail to prevent the facilitation of tax evasion. There are currently 11 live criminal investigations and 22 cases under review across ten different business sectors, including financial services, construction, labour provision, software development and the oil industry.

### Compliance is key

Although company directors should naturally be focused on the potential for any form of criminal prosecution as a matter of course, simply being able to demonstrate awareness of and compliance with the regime is becoming increasingly important, with this now being routinely examined as part of the due diligence process in sales transactions. Governance boards and non-executive directors are also requiring assurance on compliance as part of their work. Therefore, it is essential that businesses adopt a proactive approach to risk management and employee communication. It is worth noting that the new remote way of working could give rise to an increased opportunity for associates to facilitate tax evasion.

### Our pragmatic approach – we can help you

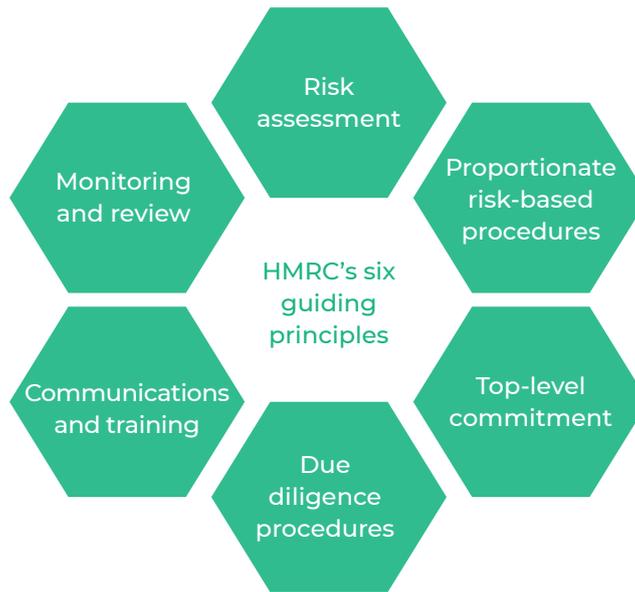
Mindful of the need to provide lower-risk businesses with a cost-effective service, we have devised a light-touch review to enable such businesses to comply with the legislation while taking a pragmatic approach to compliance.



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## RISK REVIEW – YOUR ROADMAP TO COMPLIANCE

Our recommendations will be aligned to the following six key defence principles incorporated within HMRC guidance.



The scope of work above is designed to provide you with a basis level of comfort and a roadmap of clear recommendations. Based on the findings of our review, we may identify and recommend additional opportunities or actions which may require further actions from us. All our services are bespoke and we are happy to scope out further workflows as required.

Moore Kingston Smith's tax team assists clients with their CCO compliance and risk reviews. By walking in the shoes of staff and sub-contractors, we can assess the means, motive and opportunity they may have to facilitate tax evasion by others and make recommendations accordingly. Additionally our documentation may serve as a framework which can be subject to periodic updates as part of an ongoing in-house monitoring process. The team has experience of HMRC fraud investigations as well as general tax compliance skills, providing a holistic common sense approach to this extremely important issue.

Contact us to discuss how we can add value to your business with our CCO risk review.

## CONTACT

Call:  
**+44 (0)20 7566 4000**



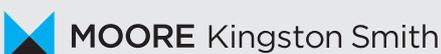
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