

Criminal Finances Act 2017: Are you protected?

September marks the introduction of new requirements from the Criminal Finances Act 2017.

It specifically introduces failure to prevent the facilitation of tax evasion as a criminal offence.

To commit the offence, there must be a primary tax evasion offence followed by the facilitation offence.

The offence would be committed by an employee or agent of a business, or someone who performs services for the business while acting as an employee or an agent.

This is a 'strict liability' offence, which means the HMRC simply needs suspicion of tax evasion to commence an investigation into a business, which they can expand if they uncover any information.

The new sanctions include a Serious Crime Prevention Order – this requires individuals to provide information relating to the offence, which means that senior staff can be questioned.

Failure to answer any questions about the business without a good reason is in itself a personal criminal offence.

As suggested in HMRC's guidance it is expected that those in the financial services sector and multinational organisations will face considerable scrutiny due to the current political and cultural climate, as many believe that financial services firms are able to help people evade tax.

Firms should be taking advantage of the statutory defence available and demonstrate that they have reasonable prevention procedures in place, show that they are adhered to, and that a culture of non-acceptance of such behaviour is embedded in the firm.

Please Call 01942 266090, Email steve@blackdiamondaccountancy.com or visit www.blackdiamondaccountancy.com to find out how you can protect your business.

Given the broad definition of tax evasion under common law and statute and HMRC's recent tendency to treat tax avoidance as tax evasion, the potential repercussions of this new statute should be acknowledged in day to day business as well as when conducting any tax planning.

Firms should act now by identifying their risk and plan to meet the statutory defence.

Businesses convicted under these new rules will not only face serious reputational damage, but also unlimited fines and the potential confiscation of business assets.

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