



Are you CCO ready? HMRC enforcement is on the rise

On 10 February 2020 HMRC disclosed that it has **30 potential cases** underway under the UK's corporate criminal offence of "failure to prevent the facilitation of tax evasion" ("**CCO**"), split between **9 ongoing investigations** and **21 potential investigations** (see [here](#)). Whilst there have been no confirmed CCO cases to date, this demonstrates a clear **ramp up in enforcement activity** since the offence came into force on 30 September 2017. In addition, HMRC confirmed that the investigations span a **wide variety of sectors**, such as financial services, oil, labour provision, construction and software, showing that HMRC is not targeting any specific industries but all areas are at risk under this new legislation. HMRC is also scrutinising companies of varying sizes, small and large.

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The number and spread of investigations clearly demonstrate that HMRC is actively enforcing the legislation across all tax and duty regimes and across organisations of all shapes and sizes

HMRC (press release of 10 February 2020)

Reminder of key elements of offence

Under the CCO, companies will be criminally liable if they fail to take reasonable steps to prevent an employee or other associated person (i.e. a third party performing services for or on their behalf) from facilitating tax evasion (which may be UK or overseas tax evasion).

The CCO has very broad territorial reach and so may cover a company's operations worldwide, not just the operations of UK entities. "Tax" is also defined very broadly and would include both corporation taxes (e.g. corporate income tax, VAT, customs, employment taxes etc.) and personal taxes (e.g. income tax).

Committing the offence will also expose companies to reputational damage, unlimited financial penalties and other ancillary orders such as confiscation orders and serious crime prevention orders (which can impose restrictions on a company's business dealings).

There is a full defence for this offence which is available if a company had in place **"reasonable" procedures designed to prevent its associated persons from facilitating tax evasion**.

Actions for businesses to take now

With the above in mind, it is imperative that companies consider whether they have reasonable procedures in place and, if not, take immediate action to address this. This should include conducting a **CCO risk assessment**; updating policies and procedures to address gaps identified from the risk assessment; and rolling out training to management and appropriate employees on the application of CCO and any new or updated policies and procedures relating to the offence.

For further guidance and information on appropriate steps to take, please see our prior alert [here](#).

Baker McKenzie Link has launched a **CCO e-learning programme** covering the key elements of the offence, consequences of violation, the reasonable prevention procedure defences, with examples and case studies. Customisation, language and service options allows the e-learning to be tailored to the each company's specific training requirements. Please see the [CCO e-learning brochure](#) for more information.

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