



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 3

#### CORPORATE OFFENCES OF FAILURE TO PREVENT FACILITATION OF TAX EVASION

##### *Failure of relevant bodies to prevent tax evasion facilitation offences by associated persons*

#### **45 Failure to prevent facilitation of UK tax evasion offences**

- (1) A relevant body (B) is guilty of an offence if a person commits a UK tax evasion facilitation offence when acting in the capacity of a person associated with B.
- (2) It is a defence for B to prove that, when the UK tax evasion facilitation offence was committed—
  - (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
  - (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.
- (3) In subsection (2) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B from committing UK tax evasion facilitation offences.
- (4) In this Part “UK tax evasion offence” means—
  - (a) an offence of cheating the public revenue, or
  - (b) an offence under the law of any part of the United Kingdom consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax.
- (5) In this Part “UK tax evasion facilitation offence” means an offence under the law of any part of the United Kingdom consisting of—
  - (a) being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax by another person,

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- (b) aiding, abetting, counselling or procuring the commission of a UK tax evasion offence, or
  - (c) being involved in and part in the commission of an offence consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax.
- (6) Conduct carried out with a view to the fraudulent evasion of tax by another person is not to be regarded as a UK tax evasion facilitation offence by virtue of subsection (5) (a) unless the other person has committed a UK tax evasion offence facilitated by that conduct.
- (7) For the purposes of this section “tax” means a tax imposed under the law of any part of the United Kingdom, including national insurance contributions under—
- (a) Part 1 of the Social Security Contributions and Benefits Act 1992, or
  - (b) Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.
- (8) A relevant body guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction in England and Wales, to a fine;
  - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

**Commencement Information**

- I1** S. 45 in force at Royal Assent for specified purposes, see s. 58
- I2** S. 45 in force at 30.9.2017 in so far as not already in force by [S.I. 2017/739](#), **reg. 3**

**46 Failure to prevent facilitation of foreign tax evasion offences**

- (1) A relevant body (B) is guilty of an offence if at any time—
- (a) a person commits a foreign tax evasion facilitation offence when acting in the capacity of a person associated with B, and
  - (b) any of the conditions in subsection (2) is satisfied.
- (2) The conditions are—
- (a) that B is a body incorporated, or a partnership formed, under the law of any part of the United Kingdom;
  - (b) that B carries on business or part of a business in the United Kingdom;
  - (c) that any conduct constituting part of the foreign tax evasion facilitation offence takes place in the United Kingdom;
- and in paragraph (b) “business” includes an undertaking.
- (3) It is a defence for B to prove that, when the foreign tax evasion facilitation offence was committed—
- (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
  - (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.

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- (4) In subsection (3) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B from committing foreign tax evasion facilitation offences under the law of the foreign country concerned.
- (5) In this Part “foreign tax evasion offence” means conduct which—
- (a) amounts to an offence under the law of a foreign country,
  - (b) relates to a breach of a duty relating to a tax imposed under the law of that country, and
  - (c) would be regarded by the courts of any part of the United Kingdom as amounting to being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of that tax.
- (6) In this Part “foreign tax evasion facilitation offence” means conduct which—
- (a) amounts to an offence under the law of a foreign country,
  - (b) relates to the commission by another person of a foreign tax evasion offence under that law, and
  - (c) would, if the foreign tax evasion offence were a UK tax evasion offence, amount to a UK tax evasion facilitation offence (see section 45(5) and (6)).
- (7) A relevant body guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction in England and Wales, to a fine;
  - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

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#### Commencement Information

**I3** S. 46 in force at Royal Assent for specified purposes, see s. 58

**I4** S. 46 in force at 30.9.2017 in so far as not already in force by [S.I. 2017/739](#), **reg. 3**

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Finances Act 2017, Cross Heading: Failure of relevant bodies to prevent tax evasion facilitation offences by associated persons.