



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.

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.