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SAO Guidance: Commerce and Industry September 2017

This guidance has been drawn up to help members working in companies or Groups with UK companies which meet the thresholds in FA 2009 Sch46. This includes a company with a turnover in excess of £200 million (subject to other technical conditions and definitions). The guidance aims to help members comply with their legal obligations under the SAO legislation and relevant professional obligations under Professional Conduct in relation to Taxation (PCRT). It has been reviewed by legal Counsel. HMRC have also had sight of it and provided answers to some specific questions related to the SAO role. Ultimately it is envisaged that it will be included as guidance within PCRT but in the meantime it is issued as standalone guidance for CIOT and ATT members.

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1 Senior Accounting Officer (SAO)

1.1 Purpose of the guidance

- 1.1.1** This guidance provides an introduction to issues of relevance where a member is reporting to an SAO or is acting as an SAO. In particular a member may find that owing to the growth of the company it becomes a 'qualifying company' within the regulations and they have to act as an SAO for the first time. It is designed as an introduction only with practical pointers. The duties of the SAO are set out in Schedule 46 to FA 2009, and further information on HMRC's view is available on the HMRC website in the [SAO Guidance Manual¹](#). Members are encouraged to look at the HMRC manual carefully and should be aware that this guidance is an additional source of information **not** a substitute for familiarising yourself with the legislation and HMRC's guidance.
- 1.1.2** An SAO is potentially subject to penalties **personally** as set out below and it is therefore important that any members working in commerce and industry are aware of the implications of the SAO regime for them. In particular members who have not previously had to deal with the requirements of the SAO regime should take time to ensure they are fully aware of the requirements.

¹<https://www.gov.uk/hmrc-internal-manuals/senior-accounting-officers-guidance>



1.2 Introduction

- 1.2.1** Companies must deliver correct and complete tax returns but a company may not be able to do this if its tax accounting arrangements are not fit for purpose. These arrangements will range from how it accounts for its business transactions to how it works out its final tax liability. The emphasis of the SAO legislation is to change the behaviour within companies to ensure tax accounting arrangements are fit for purpose and to improve compliance across a number of regimes. It involves people, policies and processes from end to end within the business. As a result of this legislation, tax has had to be brought onto the agenda of company board meetings and has generally raised the profile of tax in businesses within the regime.
- 1.2.2** Finance Act 2009 introduced the concepts of formal reporting by qualifying companies of details of their appointed Senior Accounting Officer (SAO) and by the SAO of qualifying companies on the appropriateness of their tax accounting arrangements. The definition of company is the same as in Section 1(1) of Companies Act 2006 (therefore does not currently include any partnerships, unit trusts or overseas companies). The legislation has effect for financial years beginning on or after 21 July 2009.
- 1.2.3** Qualifying companies must therefore identify an SAO who in their reasonable opinion is the company director or officer who has overall responsibility for the company's financial accounting arrangements.
- 1.2.4** The regime is applied in a prescriptive way. It is a tightly controlled process and attention to detail is required to ensure the requirements are met and penalties are avoided. In particular, areas where penalties are often incurred are:
- Where companies fail to notify details of the SAO annually as required
 - Where dormant companies are not included in the SAO certificate and notifications. The SAO legislation applies on a legal entity basis and dormant companies need to be considered.
 - Where the deadline for submission of the certificate is not checked in relation to every company in the group. The certificate needs to be submitted by the account filing deadline for each company – so if year-ends vary within a group so will the filing deadlines.
- 1.2.5** It is important to ensure that there is consistency of policy between the requirements of the SAO regime, tax strategy requirements, risk registers and other business requirements. Once appropriate policies and procedures are in place the SAO regime provides a useful tool within the business to ensure accounting arrangements are fit for purpose in every area.



1.3 Requirement to notify who the SAO is

- 1.3.1** With effect from the date a company becomes a qualifying company it must notify HMRC **annually** of the name of any person or persons acting as its SAO from when it becomes a qualifying company **even if there is no change from the previous year**. The deadline for notification is the filing deadline of the company's accounts.
- 1.3.2** There is no set form of notification but it needs to include details including which financial year the notification refers to and full details of the SAO including relevant contact details, the period for which they were SAO and the companies for which the SAO was acting – multiple companies included on a schedule under a single SAO are acceptable. A notification may also relate to more than one qualifying company.
- 1.3.3** Changes in the SAO or changes to whether the company remains a qualifying one would normally be dealt with through communication with the Company's Customer Relationship Manager (CRM) or the Mid-sized Business Customer Engagement Team (CET) at HMRC.

1.4 SAO Role within a Business

- 1.4.1** As indicated above, normally the SAO is the most senior individual who is in charge of the company accounts. It is rarely the tax manager who becomes the SAO. In practice there may be more than one SAO in a group of companies and this may be the most practical approach for some companies. It should be noted, however, that there can only be one SAO per company for a relevant period in the financial year. See also the frequently asked question below on delegating the role of the SAO.
- 1.4.2** Companies must consider carefully **who should be identified as the SAO**². HMRC can challenge the company if they consider the SAO role is not being performed by an appropriate person and the company did not hold a reasonable opinion on their appointment or has not taken into account the description of what is required of an SAO².
- 1.4.3** A member should consider carefully whether they consider they are the appropriate person to be SAO and **should not take up** the role or feel forced to do so where they do not meet the description of what is required. Remember that fines can be imposed **personally** where SAO requirements are not met (for further guidance see the section on penalties below). Members who do not consider they are the appropriate person may find it helpful to refer to the guidance on Irregularities and resolving differences of opinion which can be found on the [CIOT](#) and [ATT](#) websites.

²<https://www.gov.uk/hmrc-internal-manuals/senior-accounting-officers-guidance/saog12200>



1.5 Duties of the SAO

1.5.1 Schedule 46 to Finance Act 2009 sets out the duties as:

- The senior accounting officer of a qualifying company must take reasonable steps to ensure that the company establishes and maintains appropriate tax accounting arrangements.
- The senior accounting officer of a qualifying company must, in particular, take reasonable steps—
 - (a) to monitor the accounting arrangements of the company, and
 - (b) to identify any respects in which those arrangements are not appropriate tax accounting arrangements.
- The SAO must provide HMRC with a certificate for each financial year of the company, stating:
 - o Whether the company had appropriate arrangements throughout the year; and
 - o If it did not, to explain the respects in which they were not appropriate.
- The certificate must be filed no later than the end of the period for filing the company's accounts for the financial year.
- Whilst not an exhaustive list of taxes which are applicable to companies the new provisions indicate that the SAO certificate covers:
 - o Corporation tax
 - o VAT
 - o PAYE
 - o SDLT
 - o Insurance Premium Tax (IPT)
- In particular the SAO certificate does not cover:
 - o CIS
 - o CT61s (including income tax deducted from PID payments)
 - o NICs (Note that whilst NICs are not included, many processes will be shared with PAYE)
 - o Business rates
 - o Annual Tax on Enveloped Dwellings (ATED)
 - o Diverted Profit Tax (DPT) which applies from 1 April 2015
 - o Apprentice levy

(there may be others not included here)

Whilst not all taxes applying to a company come within the SAO requirements some businesses take the approach that they will apply the systems required under the SAO regime for all taxes. Just because certain taxes are not covered by the SAO legislation it does not mean a lower standard of records is expected. The ones not covered will still be associated with returns to HMRC which the company must ensure are materially correct.

- A certificate can relate to more than one qualifying company.



1.6 Penalties

- 1.6.1**
- Where a company fails to notify details of its SAO a fixed penalty of £5,000 is chargeable on the company for each financial year in which the failure occurs.
 - An SAO is also potentially subject to penalties **personally** where:
 - o They fail to take reasonable steps to ensure that the company establishes and maintains appropriate tax accounting arrangements in a financial year.
 - o They fail to provide a certificate or provides a certificate within the deadline that contains a careless or deliberate inaccuracy to HMRC for a financial year.
- 1.6.2** Again each of these penalties is a fixed £5,000 with no reduction available for any reason. Both penalties can apply. If there has been any failure under the legislation and there is a reasonable excuse there will be no penalty but there can be no reasonable excuse for providing a certificate that contains a careless or deliberate inaccuracy. Members might want to confirm whether their employer's insurance policies covers this though it is understood that it is commercially unlikely that it is readily insurable.

1.7 Members reporting to an SAO

- 1.7.1** An SAO in a large company will be responsible for the establishment and maintenance of appropriate tax accounting arrangements but may not be involved in detail in all of the areas.
- 1.7.2** Members reporting to an SAO will therefore support that individual in:
- Monitoring the tax accounting arrangements, and
 - Identifying any respects in which the arrangements are not appropriate and advising the SAO accordingly.

Members who do not consider they are the appropriate person may find it helpful to refer to the guidance on Irregularities and resolving differences of opinion which can be found on the CIOT and ATT websites.



1.8 Control Framework

- 1.8.1** An SAO will want to identify where the risks are and what controls are in place to control the risks. They are therefore likely to want a control framework to be in place. An individual working for an SAO is likely to need to understand and report on risks and controls in their area of the business. Controls need to be prioritised in places where there is the greatest risk.
- 1.8.2** The framework below is one possible example of how to document risks and controls. When using this start by documenting the risks on the register tab. HMRC guidance on SAO tells the employer to look at both gross risk (before any controls are applied) and net risk (after controls are applied) and the likelihood and the impact of risks, so the risk framework below provides the opportunity to score for both. For example the scale used could be 1 to 5, (for likelihood 1 is remote and 5 is certain or almost certain; for impact 1 is minor and 5 is extreme). Some organisations may prefer to go with high, medium, low, a simple traffic light scheme or something else. The advantage of 1-5 is it gives a wide enough spread to prioritise without being too burdensome.
- 1.8.3** In the payment to HMRC example the tax is not going to pay itself so gross likelihood is certainty (5) and the impact is shown as high (4). Members must note that the impact of the same risk may vary from company to company, and may also change over time. The controls that are applied to each risk would either reduce the impact or the likelihood (or both), and in this example the impact of not paying HMRC wouldn't change but the likelihood of that occurring is reduced. The net risk is acceptable so there is no need to go further.
- 1.8.4** In the next example, key man dependency, there is a higher than acceptable net risk so the risk is escalated to the next tab (SAO reporting) where a decision needs to be recorded on what will be done about it. This may also be reported as an exception on the SAO report provided to HMRC if the SAO viewed it as a failure to establish and maintain appropriate tax accounting arrangements. A Member reporting to a SAO may choose to raise it to the SAO for consideration.
- 1.8.5** Identifying both the gross and net risk is beneficial when it comes to the obligation to monitor the effectiveness of controls. Consider two risks with the same net risk score of 4 (which we will assume to be acceptable). For the first, the gross risk is 20 for the second, 8. When considering what monitoring should be put in place, the controls on the first risk should be prioritised above the second, as the impact of control failure would be greater; thus preserving evidence of controls may be appropriate for the first risk while simple attestation by control owners may be sufficient for the second.

Risk Register and SAO Reporting - Excel

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	
	Description of risk	Likelihood	Impact	Total Gross Risk	Control reference	Control Type	Control description	Net likelihood	Net impact	Net risk	Remedial Action	Target likelihood	Target impact	Target risk	Timing to completion
1	There is "key man dependency" in payroll with respect to payroll manager	4	4	16	1.4	Manual	There is some knowledge of key payroll tasks and how they are performed within the department	4	3	12	Critical processes to be documented	1	2	2	
2							Key processes to be shadowed by members of payroll team								
3															
4															
5															
6															
7															
8															
9															
10															

Risk Register and SAO Reporting - Excel

	A	B	C	D	E	F	G	H	I	J	K
	Description of risk	Likelihood	Impact	Total Gross Risk	Control reference	Control Type	Control description	Net likelihood	Net impact	Net risk	Commentary
1	Here we describe a risk - care needs to be taken to ensure that we include all major risks, even where appropriate controls are in place.	Typically 1 to 5	Typically 1 to 5	L x I = x/25							
2											
3	Payment of PAYE tax is not made to HMRC	5	4	20	1.1	Automated	Payroll manager receives an automated reminder before each monthly payment	1	4	4	Acceptable risk
4					1.2	Manual	Maker/checker control on payment instruction				
5					1.3	Automated	Post payment validation is checked against instruction				
6	There is "key man dependency" in payroll	4	4	16	1.4	Manual	There is some knowledge of key payroll tasks and how they are performed within the department	4	3	12	Escalate for mitigation
7											
8											
9											



1.9 Frequently asked questions

1.9.1 Can the SAO role be delegated?

1.9.1.1 While many will delegate the work or some of its aspects, responsibility cannot be delegated. Lots of organisations use internal certifications. The SAOs will replicate wording for people working in different areas eg VAT, SDLT, PAYE etc. The SAO will indicate that in order for them to sign off the SAO certificate they need the individual responsible for that particular area to sign off on their area.

1.9.1.2 An SAO needs to be a person in a position of responsibility within the company in relation to the company accounts. They also need to be in a position to influence what happens within the company and for this reason will generally be a senior member of staff. There needs to be a balance between their responsibility and influence within the organisation and their understanding of the detail on controls and risk. For this reason, in very large groups there may be more than one SAO. The requirements will cascade from the SAO through the organisation to ensure that the whole business is working towards meeting the SAO requirements.

1.9.2 What should the SAO do to ensure appropriate accounting arrangements are in place?

1.9.2.1 As covered in the introduction the SAO regime aims to change behaviour within companies to ensure they have appropriate accounting arrangements. In order to ensure the accounting arrangements are appropriate the SAO needs to be aware of the risks and ensure controls are in place to minimise the risks.

1.9.2.2 In order to ensure appropriate accounting arrangements are in place the SAO should consider:

- documenting the process of controls and risk rating within the company (see the sample control framework provided earlier in this guidance)
- Ensuring that staff involved have the right level of competence and training
- Adding to accounting controls to ensure staff involved have sight of the whole picture
- Monitoring, testing and maintaining the controls and processes. While differing businesses may have different risk appetites care must be taken to ensure controls focus on the areas of greatest risk. Appropriate controls do not eliminate risk but they reduce it to an acceptable level. The controls may have been adequate last year but are they still adequate? eg if an error is found it may indicate that the controls need to be looked at again.

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- Requiring a mid-year review of some processes and procedures with notification to the SAO and risk function regarding any issues arising.
 - Involving colleagues in internal audit and the head of the company's risk function. Liaison with these individuals will assist in designing controls and it is important to maintain a dialogue with these functions within the business.
 - Maintaining internal discussions with all staff involved on an ongoing basis. Internally the SAO will need to liaise with colleagues to understand if the level of risk in their particular area is acceptable and will need to be confident in the information being reported to them.

1.9.2.3 The relationship between the company's SAO and HMRC CRM or CET is an important one. Whilst the SAO could consider talking to HMRC and agreeing the framework of accounting arrangements and the risk policy, experience suggests that to date HMRC have been unwilling to comment on the appropriateness of accounting arrangements or the SAO certificate. However if the company have found a practical solution in an area where it is difficult to comply with the legislation and discussions have been undertaken with HMRC the SAO should be made aware of the outcome of those discussions. If discussions with HMRC are properly documented it is difficult to argue the SAO has been negligent. Indeed, HMRC's Guidance suggests that whilst they will not offer agreement on whether or not a company has established and maintained appropriate accounting arrangements, a CRM, CET or Case Worker should point out any matter they have identified that will or may prevent the SAO from fulfilling their main duty [SAOG14600].

1.9.2.4 A member who is not the SAO but is working within the business will need to support the SAO by advising on the best controls in relation to the area for which they are responsible, for example PAYE.

1.9.3 What are reasonable steps?

1.9.3.1 Reasonable steps will vary from organisation to organisation but the SAO must have an understanding of the main accounting controls and risk areas. If the individual identified doesn't have this awareness then the company must identify another person within the company who would be more appropriate to fulfil the role.

1.9.3.2 Reasonable steps are the steps a reasonable person in this situation would normally be expected to take. Some consideration should be given to the cost of taking controls further versus the benefits and risks. As indicated above it can be helpful to involve internal auditors and external auditors will also have a view on whether reasonable steps have been taken and whether accounting controls are appropriate. It is advisable to document and record any steps taken.



1.9.3.3 Any member who is not the SAO but is asked to advise should consider whether they have the expertise required to do so including managing the risks associated with advising on an SAO certificate. Where advice is given a member should keep an appropriate record.

1.9.4 What does materiality mean in the SAO context?

1.9.4.1 Materiality for tax purposes is not the same as the concept of accounting materiality. The HMRC [SAO guidance](#)³ includes some useful examples to illustrate this.

1.9.4.2 Businesses make judgements all the time on whether returns are materially correct – eg when quarterly VAT returns are signed off – so materiality considerations are already a routine part of working life. The SAO legislation does not add a further level of materiality.

1.9.5 What are the main notifications required under the SAO regime?

1.9.5.1 The main notifications are as follows:

- Companies need to notify details of the SAO annually by the same date as the filing deadline of the company accounts for the financial year. This is important even where the SAO details have not changed.
- The SAO Certificate must be submitted no later than the filing deadline of the company accounts for each financial year. The certificate must state whether the company had appropriate arrangements throughout the year; and if it did not, to explain the respects in which they were not appropriate.

Certificates can cover more than one company and it is important to ensure a certificate is provided in relation to dormant companies or companies that have been struck off.

The deadline for submission of the certificate must be checked in relation to every company in the group. Where a single certificate is used for all group companies the certificate needs to be submitted by **the earliest deadline** within the group of companies to ensure no penalties ensue. A certificate can be provided for each separate deadline for each company.

1.9.6 What should be done if an error is found?

1.9.6.1 Where an error is identified in the accounting records or SAO certificate then it should be corrected. Any errors identified should prompt a review to see if the underlying controls in the company are OK or whether procedures need to be amended.

³<https://www.gov.uk/hmrc-internal-manuals/senior-accounting-officers-guidance/saog14330>



1.9.7 What should be done if there are internal differences of opinion about the approach to be taken?

1.9.7.1 Members should refer to the guidance on Irregularities and conflicts of interest for those working in commerce and industry.

1.9.7.2 The SAO signs the certificate in a personal capacity and is potentially liable to penalties in a personal capacity and therefore must be comfortable with what is included. The SAO should be aware of reputational issues for themselves and the impact on their future career if personal penalties are incurred.

1.9.8 What if the company and HMRC do not agree on what is not an appropriate tax accounting arrangement?

1.9.8.1 HMRC will not necessarily comment on the appropriateness of accounting arrangements although if HMRC are undertaking a compliance visit they may raise any concerns they have. The final decision on whether accounting arrangements are appropriate will rest with the HMRC Deputy Director and, if any penalty is appealed, with the Courts.

1.9.8.2 Notwithstanding that, the member should support constructive dialogue with HMRC throughout.



2 Questions for HMRC in relation to the SAO Regime

2.1 Q1. The SAO certificate only covers certain taxes a company might be involved in. What is HMRC's approach if less rigour is applied to accounting records in relation to taxes not covered by the SAO regime?

2.1.1 Whilst there can be no question of penalising an SAO in respect of main duty failings or an inaccurate certificate in respect of accounting arrangements specifically geared to liabilities which are not 'relevant liabilities' for SAO, companies are expected to make returns to HMRC which are accurate and complete in all respects, including in respect of liabilities not covered by the SAO regime. If the accounting records and other systems and processes are deficient and lead to careless, or even deliberate, errors in a return the 'normal' penalty considerations will come into play. A company which applies 'less rigour' to accounting records concerned with taxes or duties that are not SAO 'relevant liabilities' is likely to be regarded as higher risk than a company which adopts the same standards across the board and will receive appropriate attention in the business risk review.

2.2 Q2. In large organisations it can be appropriate to have more than one SAO. In these circumstances do HMRC consider that one SAO should have overall responsibility for the others?

2.2.1 [Note: The SAO reporting is an obligation on a legal entity basis. If we're talking about groups, then it's entirely possible to have more than one SAO and there is no requirement for a hierarchical structure. Where we have just one legal entity we should have just one SAO, but they may delegate duties. Some organisations use internal certifications (for example across different heads of tax) as a toll to get the SAO comfortable that they can make the certification.]

2.2.2 The note is accurate in that SAO obligations apply on a legal entity basis and a company can only have one SAO at any one time, although there may be more than one in the course of a financial year. Where a group has a number of companies, each with a different SAO, each SAO will consider the appropriateness of the tax accounting arrangements for the company or companies for which is responsible and provide a certificate accordingly. This fully meets the requirements of the legislation. There is no need for a 'senior' SAO with overall group responsibility – consolidated accounts are of little relevance to the computation of tax liabilities.



2.3 Q3. How much are CRMs willing to engage in discussions with companies about their control frameworks and the appropriateness of their accounting arrangements?

- 2.3.1** This is encouraged as part of business risk review discussions – it is beneficial for the CRM to have as full an understanding as possible of the business’s control frameworks and the nature of its accounting arrangements and the monitoring of tax risk. CRMs will be happy to work with business with a view to reducing risk in tax accounting arrangements, particularly where specific problems have been identified by the business. However responsibility for establishing and maintaining appropriate tax accounting arrangements rests with the SAO and a CRM will not give formal confirmation that arrangements are appropriate or that a certificate is accurate, because subsequent enquiries may indicate that that was not in fact the case.



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