



Chartered
Institute of
Taxation
Excellence in Taxation

Professional Conduct in Relation to Taxation

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Professional Conduct in relation to Taxation (PCRT) sets out the fundamental principles and standards of behaviours that all members, affiliates and students must follow

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1. INTRODUCTION

Scope

- 1.1 The purpose of Professional Conduct in Relation to Taxation (PCRT) is to assist and advise members on their professional conduct in relation to taxation, and particularly in the tripartite relationship between a member, client and HMRC. The PCRT consists of the Fundamental Principles and the Standards for Tax Planning ('the Fundamental Principles and Standards') and accompanying Guidance.
- 1.2 This document sets out the Fundamental Principles and Standards and provides links to the Guidance. It is intended to be a useful, succinct reminder of what is expected of members. Members have a responsibility to attain and thereafter at all times adhere to the Fundamental Principles and Standards. If a member fails to do so they are liable to be subject to disciplinary process.
- 1.3 As PCRT makes clear at paragraph 1.4 the issues addressed in the Guidance are not intended to be, nor should they be interpreted as, an exhaustive list of all circumstances experienced by a member which may pose threats to compliance with the Fundamental Principles. Consequently, it is not sufficient for a member merely to comply with the examples presented; rather they must consider and observe the Fundamental Principles and Standards across all their professional activities.
- 1.4 This guidance includes practical advice. If in doubt about the ethical or legal considerations of a particular case, a member should seek advice from his professional body and, where appropriate, his legal advisers. The professional bodies take no responsibility for failure to seek advice where appropriate.
- 1.5 A member must at all times fulfil his obligations under the anti-money laundering legislation. Anti-money laundering issues are not covered in detail in this guidance; the member is instead referred to the Treasury approved CCAB [Anti-Money Laundering guidance for the Tax and Accountancy sector](#) (which includes an Appendix for the Tax Practitioner). A member working outside the tax and accountancy sector should refer to the relevant guidance for their sector or take advice as appropriate.
- 1.6 Nothing in PCRT overrides legal professional privilege. Similarly, nothing in PCRT shall override a member's professional duties or be interpreted so as to give rise to any conflict under general law, statutory regulation, or professional regulation of solicitors or barristers, and in the event of any conflict general law, statutory regulation or such professional regulation shall prevail. For these purposes a conflict shall be considered to arise at least where such law, statutory or such professional regulation to which members are subject would prevent compliance with what would otherwise be required by PCRT.

Application to all members

- 1.7 While the content of the PCRT is primarily applicable to members in professional practice, the Fundamental Principles and Standards apply to all members who practise in tax including:
 - Employees attending to the tax affairs of their employer or of a client; and
 - Those dealing with the tax affairs of themselves or others such as family, friends, charities, etc. whether or not for payment; and
 - Those working in HMRC or other public sector bodies or government departments.
- 1.8 Where a member's employer is not prepared to follow Fundamental Principles and Standards and/or the ethical approach set out in the Guidance (despite the member's reasonable attempts to persuade them to do so) the member may contact their professional body and/or seek legal advice. Further advice can be found at www.att.org.uk.

1.9 The Fundamental Principles and Standards will also apply to dealings with all devolved tax authorities within the UK. A member who is based overseas or who is acting for a client who is subject to the tax jurisdiction of another country could be subject to different legal obligations under the tax law and general law of that country. Subject to that caveat, a member must apply the Fundamental Principles and Standards set out in this guidance to professional activities with non UK aspects.

1.10 HMRC acknowledges that PCRT is an acceptable basis for dealings between members and HMRC.

Status

1.11 PCRT has been prepared jointly by the:

Association of Accounting Technicians
Association of Chartered Certified Accountants
Association of Taxation Technicians
Chartered Institute of Taxation
Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants of Scotland
Society of Trust and Estate Practitioners

1.12 While every care has been taken in the preparation of PCRT, to the fullest extent permitted by law the author bodies do not accept or assume responsibility to any person or persons who suffer loss or damage occasioned by reliance on PCRT.

Interpretation

1.13 In this guidance

- 'Client' includes, where the context requires, 'former client'
- 'Member' (and 'members') includes 'firm' or 'practice' and the staff thereof
- Words in the singular include the plural and words in the plural include the singular

Abbreviations

1.14 The following abbreviations have been used:

CCAB Consultative Committee of Accountancy Bodies
DOTAS Disclosure of Tax Avoidance Schemes
GAAR General Anti-Abuse Rule in Finance Act 2013
HMRC HM Revenue and Customs
MLRO Money Laundering Reporting Officer
NCA National Crime Agency (previously the Serious Organised Crime Agency 'SOCA')
POTAS Promoters of Tax Avoidance Schemes
SRN Scheme Reference Number

2. THE FUNDAMENTAL PRINCIPLES

The Fundamental Principles

- 2.1 Ethical behaviour in the tax profession is critical. The work carried out by a member needs to be trusted by society at large as well as by clients and other stakeholders. What a member does reflects not just on themselves but on the profession as a whole.
- 2.2 A member must comply with the following Fundamental Principles:¹

Integrity

To be straightforward and honest in all professional and business relationships.

Objectivity

To not allow bias, conflict of interest or undue influence of others to override professional or business judgements.

Professional competence and due care

To maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.

Confidentiality

To respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the member or third parties.

Professional behaviour

To comply with relevant laws and regulations and avoid any action that discredits the profession.

- 2.3 Each of these Fundamental Principles is discussed in more detail below in the context of taxation services.

Integrity

- 2.4 A member must act honestly in all their dealings with their clients, all tax authorities and other interested parties, and do nothing knowingly or carelessly that might mislead either by commission or omission

Objectivity

- 2.5 A member may be exposed to situations that could impair their objectivity. It is impracticable to define and prescribe all such situations. Relationships which bias or unduly influence the professional judgement of the member must be avoided.

1 The Fundamental Principles are derived from the Code of Ethics for Professional Accountants issued by the [International Ethics Standards Board of Accountants' \(IESBA\)](#) in July 2009.

- 2.6 A member must explain to their client the material risks of the tax planning or tax positions and the basis on which the advice is given.
- 2.7 A member must always disclose to their client if they are receiving commission, incentives or any other advantage and the amounts they receive from a third party relating to the matter upon which they are advising their client. They must also follow their professional body's rules on disclosure of and accounting for commission.

Professional competence and due care

- 2.8 A member has a professional duty to carry out his work within the scope of their engagement and with the requisite skill and care. A member should take care not to stray beyond the agreed terms of the engagement; if they do exceed the scope they should agree revised terms with their client and check that their professional indemnity insurance covers the enhanced work.
- 2.9 A member is free to choose whether or not to act for a client both generally and as regards specific activities. However, where a member chooses to limit or amend the scope of services they provide to a client they should make this clear in writing.
- 2.10 When advising a client, a member has a duty to serve that client's interests within the relevant legal and regulatory framework.
- 2.11 A member must carry out their work with a proper regard for the technical and professional standards expected. In particular, a member must not undertake professional work which they are not competent to perform unless they obtain appropriate assistance from a suitably qualified specialist.
- 2.12 A member who is giving what they believe to be a significant opinion to a client should consider obtaining a second opinion to support the advice. Where the second opinion is to be obtained externally, due regard must be had to client confidentiality.
- 2.13 Advice should be given in the context of the commercial and other non-tax objectives and the facts and circumstances of the client.
- 2.14 On occasions there may be more than one tenable interpretation of the law. Each case should be considered on its own individual facts and circumstances.

Confidentiality

- 2.15 Confidentiality is a professional principle and is also a legally enforceable contractual obligation. It may be an express term of the engagement letter between the member and the client. Where it is not an express term, a court would in most circumstances treat confidentiality as an implied contractual term.
- 2.16 A member may only disclose information without their client's consent when there is an express legal or professional right or duty to disclose.
- 2.17 The duty of confidentiality is rigorously safeguarded by the courts. Disclosure of confidential material in a member's own interest must be made only where it is considered adequate, relevant and reasonably necessary for the administration of justice – in other words, when a member considers that it would otherwise impair the pursuit of his legitimate interests and rights if they were prevented from disclosing the information in all the circumstances. Only the minimum amount of information necessary to protect those interests may be disclosed. Examples of such circumstances may include, but are not limited to, the following:
- To enable a member to defend themselves against a criminal charge or to clear themselves of suspicion;
 - To enable a member to defend themselves in disciplinary proceedings;

- To resist proceedings for a penalty, or civil or criminal proceedings in respect of a taxation offence, for example in a case where it is suggested that a member knowingly engaged in dishonest conduct with a view to bringing about a loss of tax revenue;
 - To resist a legal action made against them by a client or third party;
 - To enable a member to sue for unpaid fees;
 - To enable a member to sue for defamation.
- 2.18 If there is any doubt that the circumstances in 2.17 would apply, or there is the risk of challenge by a client or employer, a member is strongly recommended to seek legal advice. See the Guidance on [Dealing with Irregularities](#).
- 2.19 The anti-money laundering regime provides a statutory code to determine when a disclosure must be made to NCA. While this is a mandatory regime, it also gives a structure for the assessment of the public interest in a tax context, including which of the following should take precedence, in a particular set of circumstances:
- The public interest in reporting knowledge or suspicions of criminal activity to the authorities; or
 - The public interest in clients receiving advice in confidence.
- 2.20 A member should follow the Treasury approved CCAB guidance and the Treasury approved Appendix for Tax Practitioners at [CIOT guidance](#), in particular the guidance on 'Internal Reporting, and the 'Role of MLRO and SAR reporting'. See also Guidance in [Access to Data by HMRC](#) and [Voluntary Disclosures under Disclosure Facilities](#).

Professional behaviour

- 2.21 A member must always act in a way that will not bring them or their professional body into disrepute.
- 2.22 A member must behave with courtesy and consideration towards all with whom they come into contact in a professional capacity.
- 2.23 A member must comply with all relevant legal and regulatory obligations when dealing with a client's tax affairs and assist their clients to do the same. A member who has reason to believe that proposed arrangements are, or may be, tax evasion must strongly advise clients not to enter into them. If a client chooses to ignore that advice, it is difficult to envisage situations where it would be appropriate for a member to continue to act other than in rectifying the client's affairs.
- 2.24 Serving the interests of their clients will, on occasion, bring a member into disagreement or conflict with HMRC. A member should manage such disagreements or conflicts in an open, constructive and professional manner. However, a member should serve their clients' interests as robustly as circumstances warrant whilst applying these principles.
- 2.25 A member should consider whether any tax arrangements with which he might be associated on his own behalf or on behalf of a client might bring the member and the profession into disrepute. In this regard, members are referred to the Standards for Tax Planning set out in para 3.1 below (see also the Guidance on [Tax Advice](#) for more detail).
- 2.26 A member's own tax affairs should be kept up to date. Neglect of a member's own affairs could raise doubts within HMRC as to the standard of the member's professional work and could bring them or their professional body into disrepute.
- 2.27 A member should ensure that their internal and external communications including those using social media are consistent with the principles in this guidance and in particular confidentiality. See also [ATT PRPG](#).

3. THE STANDARDS FOR TAX PLANNING

- 3.1 In order to protect the reputation of members, the wider profession and ensure that public interest concerns are met, the PCRT bodies have developed further Standards that members must observe when advising on UK tax planning. These seek to build on the Fundamental Principles set out above, focussing in particular on integrity, professional competence and behaviour. The Standards are a supplement to, and not a substitute for, the five Fundamental Principles. These Standards have been developed in the specific context of the UK including the role of Parliament in making tax law, of HMRC in administering it and the courts in enforcing it and the roles of their devolved equivalents.
- 3.2 The Standards are set out below.

Client Specific

Tax planning must be specific to the particular client's facts and circumstances. Clients must be alerted to the wider risks and the implications of any courses of action.

Lawful

At all times members must act lawfully and with integrity and expect the same from their clients. Tax planning should be based on a realistic assessment of the facts and on a credible view of the law. Members should draw their clients' attention to where the law is materially uncertain, for example because HMRC is known to take a different view of the law. Members should consider taking further advice appropriate to the risks and circumstances of the particular case, for example where litigation is likely.

Disclosure and transparency

Tax advice must not rely for its effectiveness on HMRC having less than the relevant facts. Any disclosure must fairly represent all relevant facts.

Tax planning arrangements

Members must not create, encourage or promote tax planning arrangements or structures that i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation and/or ii) are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation.

Professional judgement and appropriate documentation

Applying these requirements to particular client advisory situations requires members to exercise professional judgement on a number of matters. Members should keep notes on a timely basis of the rationale for the judgments exercised in seeking to adhere to these requirements.

Further guidance on these Standards is discussed in more detail below.

Client Specific

- 3.3 The risks referred to in this standard are those which are directly attributable to the planning and could be reasonably foreseeable by the member. There would not normally be a duty to comment on, for example, the commercial risk of the underlying transaction. The obligations of the member to the client continue to be governed by the engagement letter.
- 3.4 Where wider risks should be highlighted, the member may either advise on them, or identify them as matters on which separate advice should be sought by the client, depending on the scope of the member's practice and of the engagement.
- 3.5 Generic opinions or advice that does not take into account the position of specific taxpayers (or a narrowly defined group of taxpayers such as a group of employees of the same company) pose particular risks. Members are entitled to make reasonable assumptions in giving advice (for example, where it would be reasonable on the facts to assume that the taxpayer(s) is/are UK resident), but assumptions should not be relied upon which are known to be unrealistic or unreasonable. If advice is generic, and/or depends on certain assumptions, this fact and the need for specific advice to be taken before acting should be highlighted with sufficient prominence to prevent any misunderstandings arising.² Members should consider including in their advice the potential impact of a change in the assumptions made and/or the circumstances which might require specific or updated advice to be obtained.

Lawful

- 3.6 The requirement to advise clients on material uncertainty in the law (including where HMRC take a different view) applies even if the practical likelihood of HMRC intervention is considered low. Clients should be told what would be reasonable, at the time of the transaction, to expect HMRC to believe the application of the law to be (assuming HMRC was fully apprised of all the facts of the transaction). Where the likely view of HMRC is uncertain or not known, the member should include this fact as part of their advice.
- 3.7 The fact that the member may disagree with HMRC on a matter is not of itself indicative of behaviour that might breach these standards. A member may reasonably believe that an HMRC view is wrong in law but, if so, the client should be alerted to the fact that HMRC holds a different view of the law and should be advised of the risks and likely costs that might be incurred in order to determine any dispute.

Disclosure and transparency

- 3.8 Disclosure should be made whenever required by law and fuller disclosure must be recommended to clients wherever it is appropriate given a wider relationship or dialogue with HMRC relevant to that client. What is actually to be disclosed will inevitably reflect a professional judgement taking into account all relevant facts and law specific to the case in question and what the client consents should be disclosed.

Tax planning arrangements

- 3.9 Where a member has a genuine and reasonable uncertainty as to whether particular planning is in breach of this Standard, the member should:
- document the detailed reasoning and evidence sufficiently to be able to demonstrate why they took the view that any planning was not in breach of this Standard;
 - include in their client advice an assessment of uncertainties and risks involved in the planning see Standard *Lawful* above; and

² 'For some suitably qualified members, this might, for example, include the preparation of standard wording for inclusion in contracts, Wills or other documents.'

- include in their client advice an assessment of the relevant disclosures that should be made to HMRC in order to enable it, should it wish to do so, to make any reasonable enquiries – see Standard *Disclosure and transparency* above.

Professional judgement and appropriate documentation

- 3.10 Members are not required to complete paperwork for its own sake, but they should be prepared to identify, support and where appropriate defend the judgements they made in applying these requirements to their work.
- 3.11 Where the judgements made are reasonable, notes taken on a timely basis are likely to be the most convincing way of demonstrating compliance with the principles after the event, to the benefit of the member and the client and to satisfy any wider public concerns.

FURTHER GUIDANCE

For further explanatory guidance on the application of the Fundamental Principles and Standards to the work of a member working in tax, see the following Helpsheets:

- [Tax returns](#)
- [Tax advice](#)
- [Dealing with irregularities](#)
- [Access to data by HMRC and Sch36 statutory notices](#)
- [Disclosure of tax avoidance schemes \(DOTAS\), follower notices, accelerated payment of tax and promoters of tax avoidance schemes \(POTAS\)](#)
- [Electronic filing of tax returns](#)
- [GAAR](#)
- [Other interactions with HMRC](#)
- [Signing VAT returns](#)
- [Tax evasion](#)
- [Voluntary disclosures under disclosure facilities](#)