



AML Newsletter on Indirect Tax – December 2019

Money laundering schemes and red flags to look out for

Indirect tax practitioners often ask us for more detail on money laundering risks and red flags which they should be looking out for in their day to day work. Many practitioners comment that they only see part of a transaction or business so would not see sufficient detail to pick up on money laundering. The CIOT and ATT have over the last year produced a supervisory risk assessment which highlights a number of areas where there may be a high risk of money laundering (or terrorist financing) in relation to:

- Customers
- Countries or Geographies
- Products or Services
- Transactions
- Delivery channels

The full text of the supervisory risk assessment is included further on in this document. This update also sets out some of the methods and schemes to facilitate tax evasion and money laundering that have been detected by HMRC and law enforcement and some of the specific risk areas which Indirect Tax Practitioners have alerted us to during visits. At the end of this update we have also provided details of where to find further guidance and provided summaries of some interesting recent cases.

Client take-on – due diligence is key!

Identifying clients and undertaking appropriate due diligence is important in order to mitigate some of the following potential risks in relation to individuals:

- Creation or takeover of a person's identity for the purpose of lodging false claims for refunds and rebates (e.g. filing of false individual income tax returns, using false information and documents, to obtain income tax refunds and VAT credits);
- Use of false and stolen identities to set up businesses to commit VAT (and income tax) fraud;
- Creation of an identity on the basis of a stolen/fraudulently used passport or other major source of identification, which is used to obtain a national identification number, which in turn is used for social welfare claims, for tax or business registration, opening bank accounts, printing invoices, etc;
- Theft of correspondence from the tax authority and the use of those details to obtain employment or to falsely claim repayments on medical expenses, etc., having changed the contact details;

As regards company clients there might be other areas of concern:

Shell companies should be identified as criminals are known to:

- Create shell companies that do not conduct real operations, they may put laundered money into circulation or only simulate transactions to generate a refund or credit against VAT;



- Use shell companies as part of carousel fraud schemes, and the shell company manager may also use a bogus identity or stolen identity.

Risks increase when advisors do not get to meet the client face to face – policies and procedures should seek to manage and mitigate the additional risks.

Don't forget even though the individual or company client may pass all of your ID checks it is also important to obtain other background information and in particular to be satisfied on the source of your clients' funds.

During the course of work – what do members come across?

VAT practitioners potentially come across a number of situations where there could be proceeds of crime:

- Failure to register for VAT despite the obligation to;
- Fraudulent use of documentation of suppliers with which no business was conducted, with the purpose of claiming VAT refunds;
- Fraudulent transactions where purchase orders are amended so goods are paid for but are not delivered to the client but are sent elsewhere and stolen;
- Failure to correctly account for VAT or Customs Duty and failure of client to take advice to correct errors;
- Customers paying a supplier twice and the supplier not refunding the overpayment;
- Suppression of earnings in cash based businesses to reduce/avoid VAT. Is the client:
 - putting money in an open till without “ringing up” a sale,
 - advertising a discounted price for those who pay cash,
 - requesting that clients pay another entity which is not the company itself?

these can all be signs that cash and tax liabilities are not being fully accounted for.

- Property transactions are seen as an area of high risk and VAT practitioners need to be aware of:
 - The source of funds being used to purchase or renovate the property;
 - Who owns the property and the reasons behind property being held using any complex company structures;
 - Builders charging incorrect rates of VAT;
 - Construction VAT fraud between contractors and their subcontractors
- Tradesmen taking “cash in hand” with the aim of avoiding VAT (or other tax) liabilities;
- Consultancy services supplied in connection with HMRC investigations where there might be a criminal element;



Supervisory Risk Assessment

The CIOT and ATT have provided guidance on risk in their role as AML Supervisors. The latest version should always be referred to and is available on the CIOT website [here](#)¹ and the ATT website [here](#)².

AML Guidance

The recently published (July 2019) Tax Sector Appendix to AML Guidance for the Accountancy Sector (AMLGAS) can be found on the CIOT website [here](#)³ and the ATT website [here](#)⁴.

It supplements the main body AMLGAS but focuses on the interaction between AML compliance and tax offences as well as covering the issues that a tax practitioner is most likely to encounter in practice.

The CIOT and ATT websites also include a selection of AML Frequently asked questions and pro forma documents to assist members with the risk assessment and policies and procedures documents which they must have in place.

Some interesting recent cases

Business sham:

A tax fraudster from Norfolk who claimed he was a spy in an attempt to cover his tracks has been ordered to pay £615,000 or face a further five years behind bars.

Raymond Thomas, 73, was jailed for four years and eight months in November 2017, after an HMRC investigation found he had stolen £1.6m.

In an attempt to hide his crime, Thomas told family and friends he was a spy and often worked abroad. In reality, he was travelling to holiday homes funded by his fraud in Berlin, Kefalonia and Perpignan with his wife, Susan Weston, 70, who helped to launder the money.

The fantasist told HMRC investigators he worked for US Homeland Security.

He claimed he ran a business called Cambridge Computer Graphics (CCG), which made aviation radar systems, and worked for the US Departments of Defense and Homeland Security.

But HMRC found the business was a sham and Thomas had created a string of false invoices to support fraudulent VAT refund claims between 2008 and 2013.

The crime was uncovered after HMRC found discrepancies after a claim for £98,000. Thomas said his work for the US meant he had to destroy paperwork. But checks with the US departments and other alleged suppliers revealed invoices were forged.

¹ <https://www.tax.org.uk/sites/default/files/Supervisory%20Risk%20Assessment%202018.pdf>

² <https://www.att.org.uk/atctiot-supervisory-risk-assessment-money-laundering-terrorist-financing-mltf>

³ <https://www.tax.org.uk/membership-and-events/anti-money-laundering-and-counter-terrorist-financing/guidance/AMLGAS>

⁴ <https://www.att.org.uk/aml-guidance-accountancy-sector-amlgas>



On 24 June 2019, he was back at Manchester Crown Court, and ordered to pay back £616,551 and Weston £439,551 within three months. They will receive default prison sentences and if they do not pay Thomas will go to prison for five years and Weston for four years.

Even if the default sentence is served, the order for repayment remains and the money is still owed.

Martin Lynagh, assistant director, Fraud Investigation Service, HMRC, said: "Thomas lived a life of luxury funded by taxpayers, but we put an end to that. Not only has he been jailed, but he will now have to sell assets to repay the stolen money. We will continue to pursue those involved in tax fraud and money laundering."

Thomas was sentenced to 56 months in prison at Manchester Crown Court on November 1 2017, having pleaded guilty on July 21 2017 to:

- Fraud by submission of false VAT returns between October 1 2008 and December 31 2013.
- Knowingly producing false invoices to fraudulently reclaim VAT payments.
- Money laundering.
- Weston, of Kersal Way, Salford, was sentenced to 12 months in prison, suspended for 12 months, at Manchester Crown Court on November 1 2017. She admitted money laundering August 7-12 2014.

Importing tobacco rather than furniture:

A fugitive who was part of a gang that processed smuggled tobacco in several factories is starting an eight-year jail term for the £17m fraud.

Robert Zduniak, 43, was convicted and jailed in his absence in May 2017 at Manchester Crown Court for conspiracy to cheat the public revenue.

The Polish national fled the trial but was traced to Prague and caught and extradited on 28 December 2018.

Zduniak, of Gloucester Road, Blackburn, had his sentence confirmed in January 2019.

HM Revenue and Customs (HMRC) said Zduniak, from Katowice, was part of an organised gang that processed the smuggled raw tobacco in illegal factories in Preston, Blackburn, Bury and Essex.

The gang smuggled 100 tonnes of raw tobacco over 15 months from the Czech Republic to produce illegal tobacco products to evade Excise Duty and VAT.

Further enquiries by HMRC established that the gang had imported more than 100 tonnes of raw tobacco mislabelled as 'furniture' into the UK, from the Czech Republic, over a 15-month period. If converted into counterfeit HRT this represents a potential tax loss of £17 million.

Tony Capon, Assistant Director, Fraud Investigation Service, HMRC, said: "A new year and a new start for Zduniak - behind bars. He'll have plenty of time to carefully consider any resolutions he wants to make."



"Zduniak must have thought he was free and clear, but we've brought him back to face justice."

Zduniak's co defendants Hubert Jankowski, 39, of Gigg Lane, Bury, and Lukasz Pawelec, 33, of Main Road, Nottingham, were each convicted and jailed for four years on 26 May 2017.

Pawelec had also tried to escape but was caught at Doncaster Airport and remanded in custody for the remainder of his trial.