

# Professional Standards – Updates and Reminders

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# Disclaimer

- *These notes have been produced for the guidance of delegates at the event for which they were prepared and are not a substitute for detailed professional advice.*
- *No responsibility can be accepted for the consequences of any action taken or refrained from as a result of these notes or the talk for which they were prepared.*

# Updates and Reminders - what we will cover

- Annual return
- Current reporting obligations
- New reporting obligations
- Taxation Disciplinary Board – Indicative Sanctions consultation
- COVID related offences
- Whistleblowing
- Corporate Criminal Offence
- CPD requirements
- Professional Indemnity Insurance
- Engagement letters and GDPR
- Professional conduct in relation to taxation
- Any questions?

# Annual return



- As a member you are obliged to complete an annual return unless you are fully retired or otherwise not working
- The return asks you to confirm you do CPD, comply with PCRT, hold PII and are supervised for AML compliance where relevant
- It is important that ATT and CIOT can demonstrate that not only do we set high professional standards for members but that we also enforce them
- This has become increasingly important and HMRC's 'Call for evidence - raising standards in the tax advice market' brings it in to even closer focus

# Annual return cont'd



## Top CIOT/ATT learning/action points from 2019 Annual return

- It does not work well with Internet Explorer
- Members would like a copy of their return
- It is difficult to tell from the portal if you have submitted your return or not

## Top learning points for members

- Look out for “fat finger syndrome” to avoid incorrect answers
- If you are a sole practitioner, partner, director or member of an LLP please complete the AML Supervisor question

# Current reporting obligations

Currently you must report in writing to the Head of Professional Standards within 2 months of the event if you:

- Are arrested on suspicion of; or
- Are charged with; or
- Are convicted of a criminal offence (other than a 'summary only' road traffic offence)
- Are notified of disciplinary and/or regulatory action upheld against you by another professional body to which you belong or by a regulator;
- Are dismissed for misconduct/gross misconduct by your employer;
- Are disqualified as a director or trustee, or enter into a disqualification undertaking;
- Receive a dishonest tax agent conduct notice;
- Receive a monitoring notice from HMRC under the Promoters of Tax Avoidance Schemes (POTAS) legislation.
- Enter into an IVA with your creditors or become subject to a bankruptcy order



# New reporting obligations

From **1 January 2021** you will be required to report the following events if they happened after that date:



## Summary only motoring offences

- Careless Driving (driving without due care and attention);
- Driving Whilst Disqualified;
- Excess Alcohol;
- Failure to stop/report accident;
- Fail to provide a specimen for analysis;

# New reporting obligations cont'd

## Summary only motoring offences cont'd

- No insurance;
- Speeding;\*
- Unfit through drink or drugs



\*Note that you will not need to report a speeding offence if you go on a driving awareness course or accept a fixed penalty for speeding.



# New reporting obligations cont'd

## If you accept a caution for a criminal offence



- While cautions can be given for relatively minor offences they can also be given for much more serious offences. In accepting a caution you are accepting guilt; should you decline the caution you will then normally be prosecuted through the normal channels for the offence. Note that too is reportable matter.

Please note that just including details of any of these offences on your Annual return is **not** sufficient. You need to report separately in writing within 2 months or else risk referral to the Taxation Disciplinary Board

# Taxation Disciplinary Board (TDB) consultation

- The TDB has issued a consultation on its Indicative Sanctions Guidance which can be found at [www.tax-board.org.uk](http://www.tax-board.org.uk)
- Possible sanctions include
  - No further action
  - Order to rest on file
  - Warning
  - Order an apology
  - Censure
  - Fine
  - Suspension of membership
  - Expulsion



# Taxation Disciplinary Board consultation cont'd

- The consultation also covers matters such as fixed penalties, publicity policy and awarding costs
- All comments are welcome and should be submitted by mail to  
The Taxation Disciplinary Board PO Box 224, Rushlake Green,  
Heathfield, Sussex TN21 1DQ; or  
by email to: [pdouglas@tax-board.org.uk](mailto:pdouglas@tax-board.org.uk)

by 9 October 2020



# Covid related offences



- Shockingly high number of employees reported as allegedly working while furloughed (according to Personnel Today over 2/3rds of staff)
- High number of Suspicious Activity Reports relating to Covid crimes made to the National Crime Agency
- If during the course of your work as a tax adviser you know or suspect or have reasonable grounds for suspecting that someone (not necessarily a client) has asked their staff to work while they are furloughed or knowingly claimed a Covid relief to which they are not entitled consider carefully whether you need to report to your MLRO or direct to the NCA

# Whistleblowing

What if you come across other firms not complying with AML requirements?



The Office for Professional Body AML Supervision (OPBAS) has stressed the importance of members of AML supervisory bodies reporting AML failures. See our websites for further details:

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

<https://www.att.org.uk/whistleblowing-policy>

# Whistleblowing cont'd

## Procedure:

- If you have concerns at work you should consider reporting internally (refer to your firm's whistleblowing policy, HR and where applicable your MLRO)
- If you come across anyone that appears to be ignoring their AML obligations (including registration) do not ignore it. You can report confidentially to our whistleblowing team at [whistleblowing@ciot.org.uk](mailto:whistleblowing@ciot.org.uk) and [whistleblowing@att.org.uk](mailto:whistleblowing@att.org.uk)



# Corporate Criminal Offence (CCO)

- Legislation was introduced September 2017
- It holds a corporate liable if it fails to prevent any associated person from facilitating tax fraud
- Businesses need “reasonable preventative procedures”
- Recent HMRC activity in this area:
  - HMRC has 10 live CCO investigations with a further 22 opportunities under review across 10 different business sectors, including financial services, oils, construction, labour provision and software development.
  - These investigations and opportunities sit across all HMRC customer groups from small business through to some of the UK’s largest organisations.
  - CCO investigations continue despite COVID



# Continuing Professional Development (CPD)



## What changed from 1 January 2017?

- Those included are no longer just those working in tax but also those who hold themselves out as tax professionals through use of the designations
- There is no longer a minimum hours requirement
- Members are required to perform such CPD as is appropriate to their duties



# Continuing Professional Development (CPD)

Topical points:



- Consider carefully your annual return answer- are you within scope even if you do not work in tax?
- Are you planning and recording CPD ready to provide the CIOT or ATT with your records if you are chosen as part of the regular review of records?
- Remember CPD requirements are not fulfilled purely by face to face courses. There are a variety of other ways of meeting the requirements eg. Webinars, technical research, reading Tax Adviser articles, podcasts etc
- Meeting CPD requirements remains despite COVID

# Professional Indemnity Insurance (PII)

PII is a mandatory requirement for all members in practice. Recent developments are:



- The market is hardening with fewer insurers willing to provide cover and risk being considered carefully
- Renewals are taking longer
- Premiums are increasing

# Professional Indemnity Insurance (PII) cont'd

- Renewals can be difficult for those with a claims history or disciplinary action
- In some cases insurers are asking for details about business arrangements during the COVID restrictions
- We are aware of insurance companies requesting confirmation that alternate arrangements are in place



**Practising without PII is a breach of CIOT/ATT rules**

# Engagement letters & Data Protection

- The CIOT and ATT strongly recommend members put engagement letters in place with all of their clients.
- They protect you and the client.
- If you do not confirm your fee policies or make the client fully aware of the terms of the agreement in writing, you may experience real difficulty recovering fees from a client who refuses to pay or disagrees with the terms of engagement.



# Engagement letters & Data Protection cont'd

- Engagement letter guidance includes a sample privacy notice and was updated in 2018 to reflect Data Protection Act changes



- If you are still not sure if you are meeting data protection requirements the ICO have a useful tool for small business owners and sole traders (How well do you comply with data protection law):

<https://ico.org.uk/for-organisations/business/assessment-for-small-business-owners-and-sole-traders/>

# Engagement letters & Data Protection cont'd

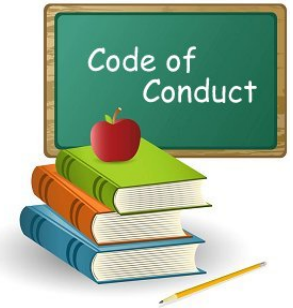
- Engagement letter guidance now includes a subcontractor agreement (for use by a practitioner acting as a subcontractor to a regulated firm engaged in public practice)
- An update was issued in April 2020 to reflect a small number of technical changes and to make the guidance more user friendly
- Look out for updates over the coming months particularly related to changes as a result of the UK withdrawal from the EU



# Professional Conduct in Relation to Taxation (PCRT)

What's new:

- Helpsheet C2 – dealing with errors – members in business
- Topical guidance covering the application of professional standards to the provision of R&D tax credit services
- New FAQs covering:
  - The interaction of PCRT and the Civil Service code
  - PCRT and COVID 19 support schemes
  - PCRT and the Law Society's Guidance for solicitors giving tax advice



# Any Questions?





# And finally

- We are here to help members in their work as tax advisers
- Please look at the Professional Standards pages of the websites
  - [www.att.org.uk](http://www.att.org.uk)
  - [www.tax.org.uk](http://www.tax.org.uk)
- Or contact us at [standards@att.org.uk](mailto:standards@att.org.uk) or [standards@ciot.org.uk](mailto:standards@ciot.org.uk)

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