

# CORPORATE FAILURE TO PREVENT FACILITATION OF TAX EVASION

Criminal Finances Act 2017 (CFA)

## BACKGROUND

The Corporate Failure to Prevent the Facilitation of Tax Evasion offence under the Criminal Finances Act 2017 (CCO) holds organisations criminally liable where their Associated Persons (e.g. employees, agents, contractors) are found to have facilitated tax evasion. Liability arises regardless of whether senior management was aware of the conduct. The offence applies to both UK and overseas tax evasion, provided there is a UK nexus.

The offence reflects an aggressive stance by HMRC and law enforcement towards tackling tax crimes, especially within complex corporate structures. Legal, compliance, and finance professionals must assess their organisation's exposure and readiness to avoid criminal prosecution, fines, and reputational damage.

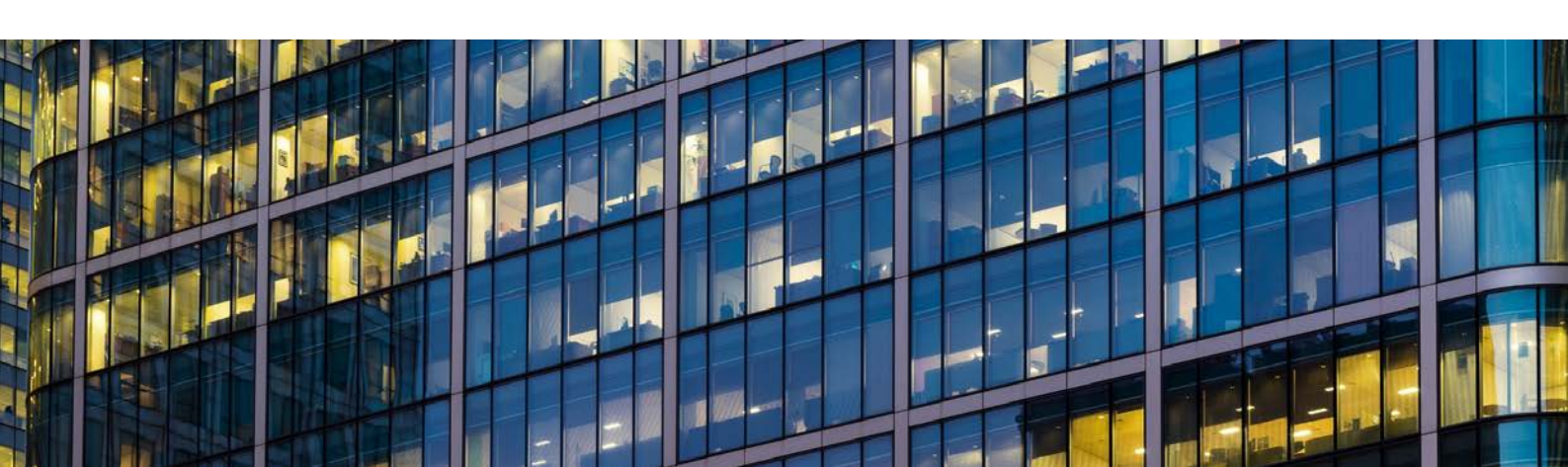
## OFFENCE AND DEFENCE

Comparable to Corporate Failure to Prevent offences under the UK Bribery Act 2010 (UKBA) and Economic Crime and Corporate Transparency Act 2023 (ECCTA), CCO is committed by an organisation if:

- ✦ Criminal tax evasion by a tax-payer (individual or entity)
- ✦ An Associated Person of the organisation, acting in that capacity, criminally facilitates tax evasion, and
- ✦ The organisation fails to prevent it

CCO creates two offences, covering both UK and foreign tax evasion, and unlike conventional criminal offences, there is no requirement to prove knowledge or intent by senior management.

These are strict liability offences, unless implementation of “**reasonable prevention procedures**” can be demonstrated.





## WHO IS CAUGHT?

This offence applies to:

- ✦ All corporate entities and partnerships, regardless of size
- ✦ Multinational groups, if any part of the act or facilitation has a UK connection (this includes UK subsidiaries of overseas UK parents)
- ✦ Organisations across all sectors, including professional services, financial institutions, property, retail, and tech

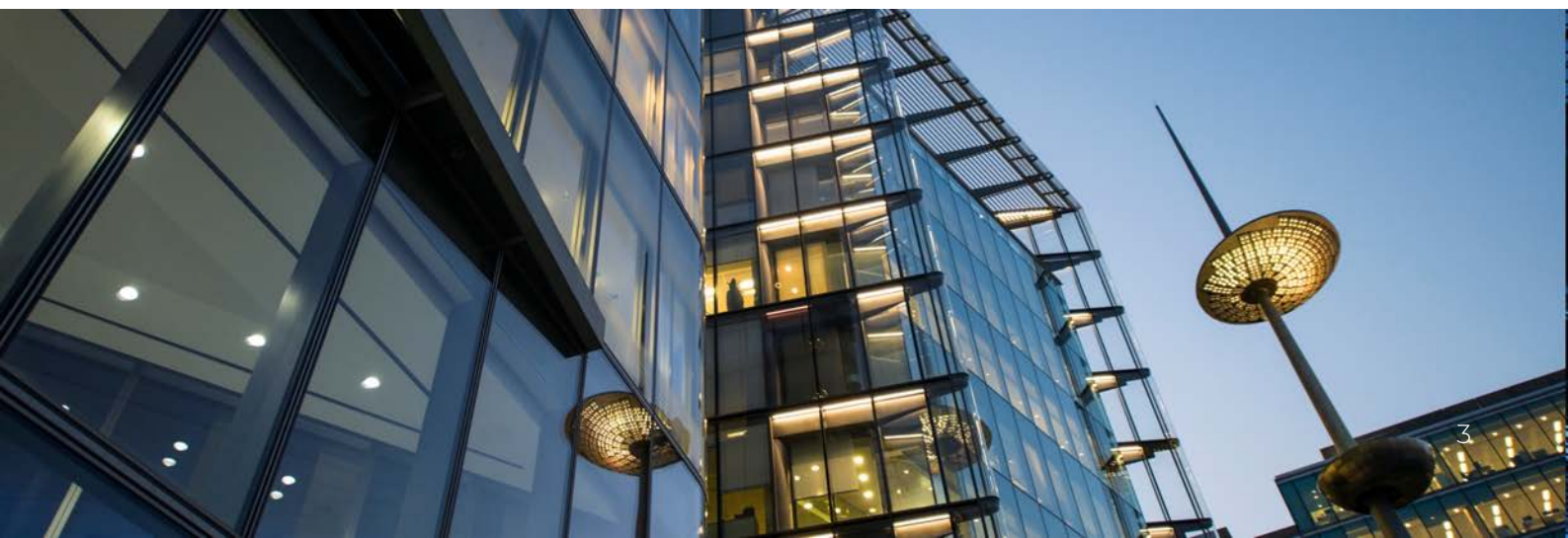
## GOVERNMENT GUIDANCE: REASONABLE PROCEDURES

The [UK government's guidance](#) is clear: while financial crime risks can and should be assessed holistically, organisations must promote a 'facilitation of tax evasion' risk-based approach to identify the safeguards and preventative controls needed. This will enable organisations to rely on the "reasonable procedures" defence.

This approach should align with the government's six key guiding principles:

- ✦ Top level commitment
- ✦ Risk assessment
- ✦ Proportionate risk-based prevention procedures
- ✦ Due diligence
- ✦ Communication (including training)
- ✦ Monitoring and review

Failure to evidence these principles leaves organisations exposed - not just legally, but reputationally and commercially.



## CONSEQUENCES OF NON-COMPLIANCE

- ✱ Unlimited fines for the organisation
- ✱ Reputational harm
- ✱ Director liability for related offences
- ✱ Debarment from public contracts

## OUR EXPERTISE

Our advice is practical, modular and client focused with a suite of 'key principles led' services including:

- ✱ Commitment and communication planning
- ✱ Tailored impact and risk assessments
- ✱ Gap analysis of existing risk controls
- ✱ Designing and updating policies, protocols, procedures and governance frameworks
- ✱ Due diligence on "associated persons" and other relevant parties
- ✱ Requisite training (in person, remotely and via e-learning) and refresher sessions
- ✱ Monitoring plan and review timelines
- ✱ Undertaking broader compliance reviews and internal investigations where required
- ✱ Self-reporting, resisting enforcement action and executing crisis and defence strategies
- ✱ Proactively managing and resolving connected commercial disputes risk

## NEXT STEPS

Spencer West supports clients across fraud, bribery, tax evasion and broader corporate crime risk management. We offer a 1-hour briefing session on relevant 'corporate risk and response' to help legal and compliance teams focus on immediate priorities and where we can offer most value within your budget.

## CONTACT US



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