Closing in on promoters of marketed tax avoidance: HMRC consultation

Management of taxes



20 August 2025

CIOT, LITRG and ATT responded to HMRC's consultation published in March 2025 proposing a range of new measures to tackle the small number of promoters of marketed tax avoidance still operating, including the introduction of new strict liability criminal offences. At the time of writing, we are considering the consultation outcome, summary of responses and draft legislation published in July 2025 on 'L-day'.

The CIOT response

The CIOT supports the government in taking a robust approach to those who continue to devise, promote or sell mass-marketed tax avoidance schemes. However, it is also essential for building and maintaining trust in the tax system that the way HMRC use their powers and operate safeguards can be effectively monitored and subjected to appropriate oversight.

As well as seeking new ideas to deal with the promoters and support those who use tax avoidance schemes, there were proposals in four specific areas.

Expanding the scope of the Disclosure of Tax Avoidance Schemes (DOTAS) regime by introducing a new disguised remuneration hallmark and by creating a new strict liability criminal offence of failing to disclose notifiable arrangements to HMRC under DOTAS

On the new DOTAS hallmark, the CIOT noted that HMRC have been overwhelmingly successful in forcing schemes to be registered under DOTAS by reference to existing hallmarks; however, it is debatable whether the promoters behind the types of schemes being targeted by the new hallmark will disclose, given that they have a history of not disclosing under DOTAS when they should. If the government decides to introduce a new disguised remuneration hallmark, we consider that its precise scope would benefit from further consultation with stakeholders. It should be made clear that genuine tax-free payments are not in scope.

On the strict liability criminal offence, the CIOT raised serious concerns, because in our view DOTAS is much too wide in its current formulation to be suitable for a criminal offence. It also seems draconian to apply the criminal offence to every hallmark when the proposal is motivated by specific problems with disguised remuneration tax avoidance schemes. In addition, a proposal to increase HMRC's powers like this needs to be measured against a hypothetical test of what would happen if an HMRC officer decides to use or target the legislation inappropriately. In our view, the present proposal places too high a level of reliance on HMRC's unpublished (and as such not transparent) internal governance process to provide appropriate, independent safeguards, to work effectively, and to ensure that inappropriate use could never happen in practice.

Introducing a universal stop notice and promoter action notice

The CIOT recognised that there is a problem with 'phoenixing' of companies by promoters and supported these proposals in principle. However, it expressed concerns that a person in breach of a universal stop notice could also potentially face criminal prosecution, through the creation of a new strict liability criminal

offence of failing to comply with a universal stop notice. We would support HMRC publishing more information externally about how decisions to issue stop notices are made and how their internal governance process works. This would improve the transparency of the regime and help to provide reassurance to external stakeholders that it is working as intended and being targeted appropriately.

Tackling controlling minds and those behind the promotion of avoidance schemes through new highly targeted obligations and stronger information powers

The CIOT is concerned that the same obstructive tactics will be employed by promoters to frustrate HMRC's efforts to obtain information about the avoidance arrangements using a connected parties information notice (CPIN); and/or the controlling minds will still attempt to dictate the responses that the recipients of a CPIN provide to HMRC. We suggest that the model for the CPIN should be based on existing information powers.

Exploring options to tackle legal professionals designing or contributing to the promotion of avoidance schemes

The CIOT agrees that action needs to be taken to address the behaviour of the small number of legal professionals who are involved in the promotion of tax avoidance schemes and we support HMRC's efforts to tackle this problem.

The consultation document also mentioned lifestyle restrictions, such as removal of passports and driving licences. Given the draconian nature of the proposals and their potential uneven effect, the CIOT does not support their introduction.

Finally, the CIOT noted that a major challenge for HMRC is how to deal with promoters who are based outside the UK, as it seems most of those left in the market are. It is not clear how these proposals will overcome what is seemingly one of the most difficult barriers to the effectiveness of HMRC's existing powers.

The full CIOT response can be found here: www.tax.org.uk/ref1489

The ATT response

In our response, we made the following comments in relation to the four areas being considered.

Expanding the scope of the DOTAS regime

We are not in favour of a new DOTAS hallmark linked specifically to the features of disguised remuneration schemes and believe that the current hallmarks are sufficient. Any new hallmark should only be introduced where there is a need to establish new clear and objective criteria to differentiate potentially abusive or high-risk tax planning from legitimate, commercially driven transactions. We do not consider it appropriate for the hallmarks to be narrowly tailored to address specific areas, such as disguised remuneration schemes.

Introducing a universal stop notice and promoter action notice

We support the introduction of both universal stop notices and promoter action notices to more efficiently and effectively disrupt the business model that promoters rely on. However, we are not in support of a criminal strict liability offence, and in our view, imposing a criminal sanction based purely on the commission of an act, without considering the individual's intent or understanding, is neither proportionate nor appropriate in the context of tax compliance.

Introducing new highly targeted obligations and stronger information powers

We agree that there is no place in our society for those involved in the creation, promotion and sale of marketed tax avoidance schemes that do not work within the letter or spirit of the law, and support the government's work in deterring, disrupting and otherwise frustrating promoters of tax avoidance. We also believe that it is right that the controlling minds behind these schemes are appropriately held to account. We therefore support the introduction of CPINs and promoter financial institution notices subject to there being appropriate and proportionate safeguards in place.

Exploring options to tackle legal professionals designing or contributing to the promotion of avoidance schemes

The ATT is the leading professional body for individuals providing tax compliance services. While some of our members may undertake work that intersects with the legal profession, this is not an area in which the ATT holds sufficient specialist

expertise to comment in detail on the proposals. However, we believe that if a legal professional carries out promotion activities that do not attract legal professional privilege, such as organising and managing arrangements which might include making contracts with end users or administering scheme transactions, then they should be subject to the DOTAS rules.

The future

The consultation notes that 'persistent non-compliance has built the justification for thinking only the risk of a custodial sentence, a criminal fine, or lifestyle restrictions such as travel or driving bans, will provide a genuine deterrent'. We acknowledge that these sanctions, whether applied individually or in combination, could have a meaningful deterrent effect. However, their effectiveness depends critically on the ability to apply them to the controlling minds and key individuals behind promoter organisations.

One concern we have, albeit without access to empirical data to substantiate it, is that many of these individuals may be based in jurisdictions where HMRC would face significant challenges in enforcing such sanctions. In the absence of a credible risk of enforcement, the deterrent value of even the most severe sanction is significantly diminished and risks becoming, in effect, toothless. Overcoming this issue may require enhanced international collaboration, bilateral agreements and the development of more robust cross-border enforcement mechanisms.

The full ATT response can be found here: www.att.org.uk/ref484

The LITRG response

LITRG did not offer detailed comments on the specific proposals, although we liked many of the ideas proposed, because we believe the issue of disguised remuneration is better understood – and more effectively addressed – through a different lens: addressing the structural use of PAYE avoidance within supply chains. This is precisely the direction of HMRC's 2023 umbrella company consultation work, which rightly refocuses everyone concerned on the correct operation of PAYE.

It is therefore surprising that these umbrella company proposals – which appear to be aimed at the same £500 million disguised remuneration tax loss – are mentioned only briefly in one paragraph of an otherwise extensive consultation with 60 questions. In the LITRG response, we say it almost feels as though HMRC are

addressing two separate issues, which, we suggest, poses significant risks.

LITRG believe it would be helpful for HMRC's counter avoidance and other relevant teams to publish a joint strategic paper outlining their shared approach to disguised remuneration and umbrella companies. This paper should clearly set out how policy and compliance functions will collaborate after April 2026.

The full LITRG response can be found here: www.litrg.org.uk/11064

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