Finance Bill 2025-26: Parts 6 and 7 – tax adviser measures

General Features

March 2026



23 February 2026

Both CIOT and ATT prepared briefings on the tax adviser measures in Parts 6 and 7 of the Finance Bill.

The CIOT highlights, and the ATT agrees, that all the Finance Bill measures aimed at tax advisers should be viewed together, and that the combined impact on compliant tax advisers should not be underestimated. It is likely that these measures will lead to an increase in the cost of tax advice, and could cause some legitimate advisers to withdraw from giving certain types of advice.

If taxpayers cannot obtain the tax advice they need at a price they can afford, the knock-on effect will be more mistakes in tax returns, an increased compliance workload for HMRC, and a widening tax gap. This would make the UK a less attractive place to do business, with adverse consequences for the wider economy.

Avoidance (Part 6)

The CIOT supports the government's objective of closing in on the remaining small number of promoters of marketed tax avoidance. However, most of the remaining hardcore of avoidance promoters have at least some offshore presence, and it is unclear how effectively these measures will bite on them.

Chapter 1: Prohibition of promotion of certain tax avoidance arrangements

The legislation introduces a statutory ban on promoting tax planning arrangements with 'no realistic prospect of success' and provides for regulations prohibiting the promotion of arrangements likely to cause harm to participants. The first of these measures has not been adequately consulted on, which is particularly concerning given that the legislation creates a new strict liability criminal offence. This lack of consultation has contributed to a number of concerns with the legislation.

The CIOT is worried that this new offence could capture normal tax advice due to the way the legislation is worded. In particular, clarity is needed on the meaning of the terms 'marketed' and 'likely to be marketed'. The legislation should cover only arrangements which have been marketed as a means by which a person may seek a tax advantage, not those which are only 'likely to be marketed' in this way. We would like to see a clear ministerial statement confirming that an error in advice, which does not have the characteristics of marketed tax avoidance, is not intended to be caught by this measure.

The new regulation-creating power must be subject to appropriate HMRC governance to ensure that it is used consistently and appropriately. The regulations must clearly set out the scheme's steps and the tax advantage being targeted.

The sanctions for being caught by this legislation are severe – significant penalties and a strict liability criminal offence. We recommend that a reasonable excuse defence is included, and that consideration be given to a reasonable procedures defence. Otherwise, it is possible that the behaviour of one 'rogue' individual could result in an organisation being prosecuted despite having reasonable procedures in place to prevent such an outcome. Further clarity is also needed on which individuals within a firm HMRC intend to target.

In addition, where a tax adviser is penalised under this measure, HMRC may suspend their agent registration (if they are registered), which is itself likely to be a business-ending event.

The ATT agrees that these clauses are drafted in overly broad terms and risk capturing legitimate tax advisers who act reasonably, professionally and in good faith. In particular, the prohibition is triggered by an evaluative judgement as to whether arrangements have ‘no realistic prospect’ of achieving a tax advantage, a determination that may often only be made with hindsight in areas of legal uncertainty.

The introduction of strict liability criminal sanctions, without any requirement for intent, recklessness or dishonesty, and without a statutory defence based on reasonable professional judgement, represents a material concern for tax advisers. As drafted, the legislation risks deterring tax advisers from providing legitimate tax advice in complex or evolving areas of tax law, potentially reducing choice for taxpayers and undermining wider economic objectives.

Chapter 2: Promoter action notices

HMRC will be able to issue notices requiring businesses to cease providing products or services to promoters of tax avoidance. The CIOT recommends that guidance should include practical examples of how HMRC intend promoter action notices to operate, and that the legislation should permit the recipient of a promoter action notice or preliminary notice to disclose that information to a professional adviser without requiring HMRC’s permission.

The ATT focused its briefing on clause 169, which permits HMRC to publish information about individuals who have received penalties in connection with promoter action notices. While we support the policy objective of promoting transparency and deterrence, we have significant concerns regarding the scope and proportionality of the information that may be disclosed. In particular, the power to publish any address used by the recipient risks the public disclosure of residential addresses, creating risks to personal safety and security, especially for individuals with existing safeguarding concerns.

Chapter 3: Anti-avoidance information notices

This chapter gives HMRC powers to issue notices requiring people they believe are connected to the promotion of tax avoidance to provide documents and other information. The legislation includes an exemption for lawyers, which does not apply to other professionals. This presents a risk that some taxpayers will no longer use UK non-lawyers for advice about investing or doing business in the UK. The CIOT therefore suggested a way forward to create a more level playing field between advisers.

Chapter 4: Legal professionals; disclosure of tax avoidance schemes; Construction Industry Scheme

The CIOT supports clauses 206 to 212, which seek to address the behaviour of a small number of legal professionals who are involved in the promotion of tax avoidance schemes, and clauses 213 to 216, which are intended to speed up the imposition of penalties on promoters for failing to disclose avoidance schemes.

Clauses 217 to 219 will permit HMRC to withdraw gross payment status from sub-contractors in the construction industry with immediate effect, where they believe the business knew, or should have known, that payments were connected to fraud. While it is right to tackle fraud in the construction industry, the loss of gross payment status can result in the termination of a business. The CIOT considers that a safeguard is therefore needed to protect businesses from the immediate loss of gross payment status where HMRC have made a mistake in determining that the business knew, or should have known, about the fraud.

The full CIOT briefing is available here.

The full ATT briefing is available here.

Registration of tax advisers (Part 7 Chapter 1)

Both the CIOT and ATT support the introduction of a legal requirement for firms offering tax advice who interact with HMRC to register and meet minimum standards. However, this legislation threatens excessive costs and existential risks for reputable firms, potentially to the detriment of their clients, HMRC’s workload and the UK’s tax gap. Both the CIOT and ATT therefore strongly urge a delay to implementation until April 2027, to allow time to assess and address these concerns.

The CIOT pointed out that HMRC are asking tax advisers to trust that they will not use the legislation against good, reputable firms that make an isolated mistake. For example, a firm could have its registration suspended for owing as little as £1 of tax. A large firm could be deregistered as a result of a single misjudgement by one partner or employee.

This legislation provides an individual HMRC officer with inappropriate and significant powers to suspend a registration. Suspension could force a reputable firm to cease to trade, only for the suspension decision to later be overturned. We therefore urge the inclusion of a clause requiring HMRC to act in a reasonable and proportionate manner, reflecting the nature and scale of any alleged misconduct.

The CIOT's other proposals include:

- a reasonable excuse clause to prevent a tax adviser being suspended for small late payments of tax or late returns arising from circumstances beyond their control, such as ill health;
- suspending advisers from the register only for repeated or seriously poor behaviour;
- placing any suspension automatically on hold pending a review or appeal;
- vesting the power to suspend a firm, and to approve temporary relief applications (for reasons other than late tax payments or returns), with HMRC Commissioners rather than an individual HMRC officer;
- removing HMRC's power to conclude a statutory review in their own favour by simply not dealing with the request;
- providing clarity that HMRC will use only 'HMRC's Standards for Agents' to determine whether a tax adviser has behaved unreasonably;
- making changes to the criteria for temporary relief from suspension; and
- committing to a thorough post-implementation review of this measure.

The ATT agreed with the CIOT's comments, and also expressed concern that, as registration will only be required of tax advisers who directly interact with HMRC, the more unscrupulous actors in the market could circumvent these new rules.

The ATT also noted that the legislation allows for a tax adviser's registration to be suspended where certain standards of behaviour are not met. However, the required standards of behaviour are not set out in the legislation and are instead relegated to a future notice to be published by HMRC. Given the potentially severe consequences

of suspension, we would have strongly preferred the applicable standards to be identified directly in the primary legislation.

The full CIOT briefing is available here.

The full ATT briefing is available here.

Tax adviser conduct (Part 7 Chapter 2)

This legislation amends the regime for tackling tax advisers who facilitate non-compliance in their clients' tax affairs by amending the tax agent 'dishonest conduct' rules (FA 2012 Sch 38), renaming them the 'sanctionable conduct' rules.

Moving from a high threshold (dishonesty) to one that is lower and potentially ambiguous (sanctionable conduct, as defined) lowers the bar considerably. In its briefing, the CIOT sets out examples of behaviour that is neither dishonest nor deliberate wrongdoing but which could nevertheless fall within the definition of sanctionable conduct.

At the same time, the consequences for non-compliance are being made significantly more severe. HMRC will have the power to charge penalties based on the potential loss of tax revenue arising from an adviser's actions, which in many cases is likely to be disproportionate compared to the level of the fees charged for the work. Such penalties are uninsurable and could potentially put firms out of business. In addition, if a tax adviser is penalised under this measure, HMRC may suspend their agent registration, which is itself likely to be a business-ending event.

While the government has stated that its intention is to target only those advisers who *deliberately* facilitate non-compliance, this intention is not reflected in the drafting of the legislation. We would like to see the wording amended so that it captures only deliberate facilitation of non-compliance and not, for instance, differences of technical interpretation of the law. Failing this, a clear ministerial statement to Parliament confirming the intended scope of the measure would be helpful.

The CIOT also suggested an amendment to clarify that references to a client paying the tax required, or claiming relief to which they are entitled, include HMRC guidance and extra-statutory concessions, as well as legislation.

The legislation gives HMRC wide powers to publish information relating to misconduct by tax advisers, with no external safeguards. HMRC should publish their internal governance processes around the use of this power, to provide transparency and confidence that it will be exercised appropriately and not abused. There should also be a provision to prevent a firm being named where one of its staff misbehaves, provided the firm can demonstrate that it had reasonable procedures in place to prevent such behaviour.

The ATT supports robust action against tax advisers who deliberately undermine the tax system. However, we are concerned that the breadth of the new provisions may unintentionally capture advisers acting reasonably and in good faith, particularly in complex or uncertain areas of tax law. The absence of an explicit intent or reasonable care safeguard, combined with potentially uncapped financial penalties and the replacement of HMRC's discretion to publish sanctions with a statutory duty to do so, risks disproportionate outcomes and a chilling effect on the tax advice market.

Targeted amendments and safeguards are therefore recommended to ensure the regime remains focused on deliberate or reckless behaviour, maintains proportionality, and provides appropriate procedural protections, including discretion around publication. These changes would help to preserve confidence in the tax advice market, while supporting HMRC's objective of tackling persistent and abusive facilitation of non-compliance by tax advisers.

While the ATT support increased transparency around HMRC's regulatory activity, we are concerned that the proposed publication of postcode information could inadvertently expose individuals to heightened personal safety and security risks, particularly where advisers operate from home addresses. We therefore recommend that the legislation be amended to permit publication only of the *geographical region* of the tax adviser's address, rather than a postcode.

We are also concerned that the notification requirements in clause 249 lack sufficient certainty. Where HMRC are aware of a material change in circumstances, the legislation currently requires notification 'so far as is reasonably practicable'. Given the significant impact of publication on a tax adviser, we recommend that the legislation be amended to require HMRC to notify the adviser within 14 days of becoming aware of a material change in circumstances, and to provide the tax adviser with a meaningful opportunity to make representations before publication or

amendment of published information.

The full CIOT briefing is available here.

The full ATT briefing is available here.

Margaret Curran *mcurran@ciot.org.uk*
Steven Pinhey *spinhey@att.org.uk*
Emma Rawson *erawson@att.org.uk*