



ALLSAINTS

WOODFORD WELLS

Title	Criminal Finances Act 2017 (<i>Tax Evasion</i>) Policy
Owner	Treasurer
Issue Date	July 2024
Reviewed By	Rachel Whitelegg
Approved By	Risk and Governance Committee
Approved Date	January 2020 July 2024
Next Review Due	July 2025

Criminal Finances Act 2017 - Failure to prevent the facilitation of Tax Evasion

A) Introduction

From 30 September 2017, All Saints' Woodford Wells (ASWW) may be held criminally liable for the actions of its employees and other "**Associated Persons**" (defined in Section D below) who knowingly facilitate tax evasion. This criminal offence carries strict liability, subject to the defence of ASWW having in place reasonable procedures to prevent the facilitation of tax evasion.

This policy (the "**Policy**") prohibits "**Personnel**" (defined in Section B below) from engaging knowingly in any activity that facilitates a third party in committing criminal tax evasion, and sets out, in overview, the requirements and guidelines established by ASWW in order to prevent the facilitation of tax evasion by employees or Associated Persons of ASWW.

Failure to comply with this Policy is a disciplinary offence. Non-compliance with tax laws and regulations may also result in criminal, civil and/or regulatory penalties against an individual and/or ASWW.

B) Scope

This Policy applies to all employees, consultants, trustees, volunteers and agents (collectively, "**Personnel**") of ASWW.

C) Facilitation of tax evasion

Personnel must never knowingly engage in any activity that facilitates an individual or entity dishonestly to evade tax.

What is tax evasion?

In broad terms (and as is relevant), 'tax evasion' is the dishonest non-fulfilment of a tax obligation. Tax evasion is illegal and is different from legal forms of tax planning and mitigation (which do not involve dishonesty).

Hallmarks of tax evasion include (i) misrepresenting (to HMRC) the true owner of an entity, asset or profits; (ii) misrepresenting the true nature of a transaction; (iii) misrepresenting the true quantum of profits or losses; and (iv) absconding without payment of tax that is known to be due. Tax planning/avoidance can cross the line (to become evasion) where the relevant individual does not have an honest belief that they are entitled to the tax treatment claimed by them.

What is facilitation of tax evasion?

Facilitation of tax evasion is any act done with (i) the intention or knowledge that the act will assist in the commission of tax evasion; or (ii) wilful blindness as to whether it will assist the commission of tax evasion.

Any act that furthers the tax evader's objectives may be classified as facilitation if the person performing the act knows that (i) the tax evader intends to evade tax; and (ii) the action will assist the tax evader in evading tax.

Examples of facilitation of tax evasion include (i) providing financial assistance (such as effecting a payment); and (ii) providing planning or advice. In addition, the referral of an entity/individual to a third party will constitute facilitation if it is known that the referral will assist the relevant entity/individual to evade tax. Personnel who are considering referring an entity/individual to an external adviser for financial advice should discuss that proposed referral with the Chair of the Risk and Governance Committee (RGC).

Personnel should be alert to red flags and indicators of potential tax evasion in their area of work/function and ensure that they report and/or escalate any concerns and issues appropriately (see Section E below). Examples of possible red flags include (i) unexplained desire for a payment to be kept secret; (ii) unexplained desire for a payment to be fragmented/dispersed to multiple parties; (iii) unexplained desire for a payment to be diverted from the expected recipient to another party; (iv) unexplained discrepancy between known/observed facts (relating to a payment or transaction) and facts reflected in documents (for example, transaction of payment documentation).

Further guidance on the above concepts, and possible red flags, for higher risk Personnel will be provided through face to face training.

D) Associated Persons

In addition to liability arising as a result of the actions of Personnel, ASWW can face criminal liability in circumstances where an Associated Person facilitates criminal tax evasion. The statutory definition of Associated Person for these purposes is extremely broad and imprecise. It covers any person "who performs services for or on behalf of" ASWW, determined "by reference to all the relevant circumstances" (for example, and depending on the circumstances, sub-contractors and third party professional advisers).

When engaging a potential Associated Person, Personnel should take care to select third party intermediaries that have the requisite skills and experience to undertake the activities for which they are being engaged. When engaging any such person, Personnel should ensure that any engagement letters or other contracts with the Associated Person contain appropriate contractual protection to manage the risk of facilitation of tax evasion (such as representations and warranties relating to the facilitation of tax evasion) as well as related indemnity and termination provisions.

Any concern that an Associated Person has been, or may be, involved in facilitating tax evasion should be escalated as described below.

E) Escalation

Personnel must report to Chair of RGC if they have actual knowledge, or reasonable grounds to suspect, that any person is engaging in or intends to engage in tax evasion in connection with activities related to ASWW.

Personnel must escalate to Chair of RGC if they have actual knowledge or reasonable grounds to suspect that any Personnel or third party acting on behalf of ASWW is facilitating or attempting to facilitate tax evasion.