ACCOUNTANTS & TAX ADVISERS FACE POSSIBILITY OF TOUGHER PENALTIES

Accountants and financial advisers who 'enable' tax avoidance could be fined up to 100 per cent of the tax avoided, under proposals announced by the UK Treasury.

The move continues recent government efforts to fight tax avoidance, which were initially heralded by former chancellor George Osborne in his Budget this year, and have since been taken up by Theresa May.

The Treasury's new measures, part of a consultation that was published last week, would apply to accountants, tax planners and advisers involved in schemes found to be avoiding tax.

The measures include proposals to name and shame companies that have been identified as enabling avoidance, to "alert and protect taxpayers". Penalties would be charged not just to the designers of avoidance schemes, but also the independent financial advisers who market them and the lawyers and bankers who facilitate implementation, according to the consultation documents.

The consultation document also seeks to make it easier to impose penalties when avoidance schemes are defeated, by forcing suspected tax avoiders to demonstrate that they took reasonable care to avoid errors in their tax returns. Currently the burden of proof rests with HM Revenue & Customs; the Treasury consultation proposes reversing that, because it "creates an incentive for tax avoiders to make it difficult for HMRC to gather evidence to show their true motives".

Until now HMRC has concentrated on tackling the individuals who don't pay their tax, while advisers and promoters of tax avoiding schemes have remained "shadowy figures" in the background.   The intention of the measures is that this will stop once there is a penalty for the professionals involved of up to 100% of the amount avoided in a scheme.

The government isn't targeting legitimate ways of cutting tax bills, such as tax breaks for putting money in pensions or ISAs. The behavior it's trying to root out involves bending the rules to gain a tax advantage that Parliament never intended, an abuse which they estimate costs nearly £3bn a year.

There is much concern in the legal and tax profession on the persistent move towards a system which does not distinguish between avoidance, which is not illegal & evasion which clearly is. There is also great concern over how any such new rules will be interpreted with the risks so high are even good housekeeping ideas going to be out of bounds?

The new rules come after the government set up a new task force to investigate allegations of tax-dodging and money laundering in the light of the Panama Papers leak, which lifted the lid on how the rich and powerful use tax havens to hide their wealth. Following the Panama Papers scandal the five largest economies in the European Union, the UK, Germany, France, Italy and Spain, agreed to share information on secret owners of businesses and trusts.