



**ACCOUNTANCY
EUROPE.**

ACCOUNTANTS & TAX

DO THE RIGHT THING



Much attention is given to tax evasion and money laundering; these are crimes that need to be dealt with, and we are determined to combat these illegal acts. However, legal tax planning is also under increased scrutiny.

Here, we clarify Accountancy Europe's positions on the role and responsibilities for professional accountants in the tax system and especially related to tax planning.

'Tax planning' is a broad term, from accessing specific tax incentives to interpreting tax laws. Tax advisers must often use their best judgement. There are risks that these interpretations can be perceived as tax avoidance.

This brochure summarises our 2017 publication [The role of professional accountants in tax - Questions & Answers](#).

ACCOUNTANTS & TAX PLANNING



In respect to legal tax planning, we set out below some considerations for accountants when advising clients. This is aspirational and is not permitted in all jurisdictions - due to different regulatory environments, different cultural perspectives or the fact that the tax policy debate is at a different stage in different countries.

Accountants are often required, sometimes by law, to make the taxpayer aware of all legal ways in which the tax liability could be mitigated. However, the client has the final decision on whether tax planning arrangements will proceed. The accountant is free to refuse to implement arrangements that may not be in their, or their client's, best long-term interests.

Accountants must comply with [fundamental ethical principles](#) in their day-to-day professional life. When advising taxpayers, we believe that accountants must additionally:

RESPECT THE SPIRIT AND THE LETTER OF THE LAW

Accountants must not devise and promote tax planning structures or arrangements that are designed to achieve a different result than what is clearly intended by the legislators and/or which are wholly artificial and wholly contrived and which seek to exploit loopholes, mismatches between different legislation or different treatment of structures or items in different countries.

GIVE TAX ADVICE THAT IS BASED ON A REALISTIC ASSESSMENT OF THE TAX LAW AS IT STANDS

Where uncertainties exist, the accountant must give their client an honest assessment of these uncertainties and the potential risk that they pose. Where necessary, the accountant should take appropriate additional advice to confirm the position taken.

PROVIDE TAX ADVICE THAT IS CLIENT-SPECIFIC

In practice, accountants should not promote pre-packaged tax avoidance schemes but rather base their advice around the commercial and economic realities of their clients.

BE TRANSPARENT IN DEALING WITH TAX AUTHORITIES

Accountants must terminate any client relationship with clients who decide not to disclose the relevant facts (as defined at a national level) to the tax authority.

DEALING WITH STAKEHOLDER CONCERNS WHEN PROVIDING TAX ADVICE



Sometimes accountants will be asked to provide tax advice for perfectly legitimate commercial transactions that fall into areas of enhanced public concern. In such circumstances, accountants should:

- Consider the public perception of the advice – including the degree to which reputational harm could accrue to the taxpayer, the accountant and the accountancy profession as a whole. The risk factors should be brought to the taxpayer's attention, so that the taxpayer is able to make a well-informed decision as to whether to proceed with the advice or not.
- Be aware that structures that include overseas jurisdictions are viewed with increasing suspicion, particularly when the offshore jurisdiction is viewed as non-cooperative and/or appears on blacklists.
- Be aware that structures that include the use of jurisdictions that do not require the filing of beneficial ownership information are also increasingly viewed with suspicion.
- Consider whether the use of non-transparent structures can, in any way, be commercially justified. The use of such structures considerably increases the risk to both taxpayer and accountant.

Accountants should avoid giving tax advice unless there is a valid commercial reason, which reflects economic reality and where obtaining a tax advantage is not the main purpose, or one of the main purposes. When the transaction has a genuine commercial purpose, the client should be informed of any risks and full documentation should be kept supporting the judgements made.

WE ARE ALL IN THIS TOGETHER!

Accountants already have many roles in the tax system. We assist taxpayers with complex tax laws and tax return filing and provide independent assurance of tax returns. Tax authorities benefit from our expertise in developing new systems that both improve the taxpayer experience and increase efficiency by using analytics, big data or artificial intelligence. We use forensic accounting skills to investigate fraud or embezzlement, which can be very effective in the fight against fraud and criminal activity.

All players, whether tax authorities, lawmakers, accountants, lawyers, bankers or taxpayers, must accept collective responsibility for improving tax systems. We see that the [current system is inadequate](#) to deal with the challenges in the modern economy.

We must look to improve current inadequacies and inefficiencies, and also look at alternative ways of raising tax revenue. Only in this way will we ensure that there is sustainable financing for our public services in the future.

The accountancy profession stands ready to play its full role in developing fair and sustainable tax systems for the future. On an international level, the International Ethics Standard Board for Accountants has created a working group examining the [ethical implications of 'aggressive' tax planning](#) for professional accountants.

As described in our document, [Focus Areas – Tax](#), Accountancy Europe will play its part by working on restoring trust in the tax system and helping to build a resilient tax system for the future.

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ABOUT ACCOUNTANCY EUROPE

Accountancy Europe unites 51 professional organisations from 35 countries that represent close to 1 million professional accountants, auditors and advisors. They make numbers work for people. Accountancy Europe translates their daily experience to inform the public policy debate in Europe and beyond.

Accountancy Europe is in the EU Transparency Register (No 4713568401-18).