



ICAEW REPRESENTATION

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RELIANCE ON ICAEW FIRMS UNDERTAKING TAX WORK

A summary of the compliance framework and standards required of ICAEW practising members and firms undertaking tax work

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INTRODUCTION

1. The purpose of this paper is to set out the case for HMRC to place greater reliance on the work and standards of ICAEW members engaged in tax work.

EXECUTIVE SUMMARY

2. Bodies such as ICAEW were formed with the public interest responsibility to promote high technical and ethical standards among members, thereby promoting public confidence in ICAEW Chartered Accountants and allowing members to use and be known by that designation. In order to practice ICAEW members have to satisfy high professional standards to become a member and then maintain those standards in their daily work. We believe that this is an extremely important and valuable foundation upon which the UK tax system is built and upon which HMRC should place reliance.
3. HMRC should therefore give appropriate recognition to ICAEW member firms in its risk analysis process and, more generally, in developing its agent strategy and the delivery of agent registration and self-serve options.
4. We appreciate that with over 13,000 member firms, some problems may arise from time to time with the quality of work of ICAEW members. While such cases should be rare, ICAEW has a public interest in maintaining high standards at all times and ensuring that HMRC can continue to have confidence in our members' work. We are happy to work with HMRC to identify how any problems can be addressed within the existing frameworks of the ICAEW Code of Ethics and principal and disciplinary bye-laws.
5. ICAEW believes that HMRC should concentrate its scarce resources and monitoring on that segment of the tax agent population that poses the greatest risk, in particular this sector will include the 30% of agents who are not members of a professional body

WHO WE ARE

6. ICAEW is a professional membership organisation, supporting over 140,000 chartered accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.
7. Our members provide financial knowledge and guidance based on the highest professional, technical and ethical standards. We develop and support individuals, organisations and communities to help them achieve long-term, sustainable economic value.
8. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.
9. ICAEW is one of the largest professional bodies in the UK. ICAEW members provide tax services to the general public, businesses and others. ICAEW has over 13,000 firms in public practice and the majority of those firms will be engaged to a greater or lesser extent with the provision of tax services.
10. ICAEW acts as regulator in respect of audit, investment business and insolvency. 3,800 member firms are registered to conduct audit work and 2,500 authorised for investment business. As the largest insolvency regulator in the UK ICAEW also licences over 700 insolvency practitioners. Firms working in these regulated areas must comply with the relevant regulations for those areas and are monitored by ICAEW in respect of them.

PREVIOUS ICAEW RESPONSE TO THE AGENT STRATEGY CONSULTATION

11. ICAEW Tax Faculty last responded to HMRC's agent strategy in 2011, published as [TAXREP 52/11](#). In our response to that consultation, we stated that

'The consultation raises important questions about the nature of the tax profession, the role of professional bodies and whether all agents should be qualified. We believe that qualified professional tax agents such as chartered accountants play an important role in maintaining standards. However, currently HMRC does not recognise or give proper credit for membership of a professional body or, in the case of ICAEW, for that body's monitoring of the performance of members. The proposals should look to build on these important foundations and give credit for them.'

12. This paper seeks to explain why HMRC should place much more reliance on the work done by professionally qualified ICAEW members than it does currently, and how this reliance can be maintained.

ICAEW AND THE PUBLIC INTEREST

13. ICAEW operates under a Royal Charter which sets out a desire to serve the public interest. Tax is specifically referred to in the Royal Charter as set out below.

'The principal objects of ICAEW include advancing the theory and practice..... of taxation and to preserve the professional independence of accountants in whatever capacities they may be serving ... and to maintain high standards of practice and professional conduct'.

14. As a professional membership organisation acting in the public interest ICAEW is responsible for protecting the public by ensuring that members maintain the highest standards of professional conduct and competence. Our ethical behaviour, both actual and perceived, is fundamental to maintaining ICAEW's reputation, promoting trust and inspiring confidence in it and its members.

HOW ICAEW UPHOLDS STANDARDS IN TAX

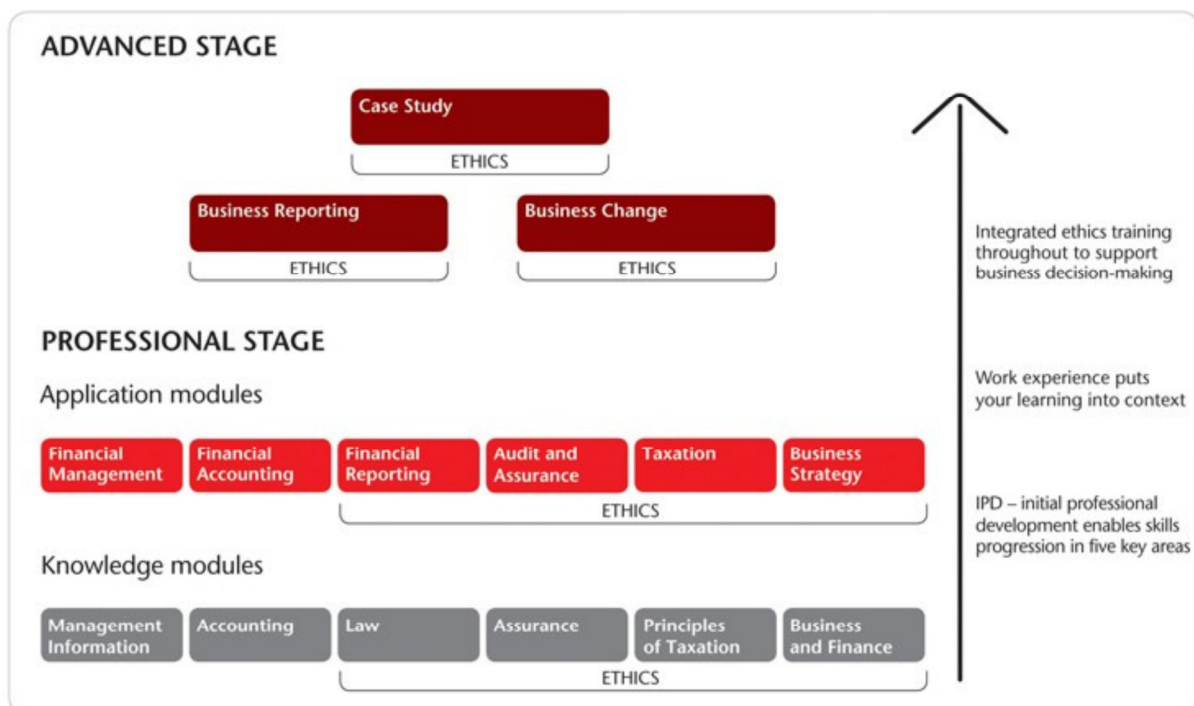
Summary of requirements

15. In summary membership of ICAEW involves meeting the following requirements. All ICAEW members must:
- **pass** demanding exams that involve a significant tax element undertaken while under a workplace-based client-facing training contract for a minimum of three years (paras 19 to 22);
 - **maintain** Continuing Professional Development (CPD) and make an annual declaration of compliance that may be checked (paras 23 to 25);
 - **abide** by the ICAEW's rules, regulations and bye-laws (which include, but are not limited to, the ICAEW's Ethical Code and the pan-professional body code of conduct on taxation, see further below) (paras 26 to 32); and
16. ICAEW members engaging in public practice must also:
- **obtain** a Practising Certificate (PC), maintain adequate professional indemnity insurance (PII), comply with the money laundering and client money rules; and
 - **register** their practice with ICAEW, submit an annual return and comply with ICAEW's Practice Assurance scheme (paras 33 to 38).

17. Member firms must comply with the Money Laundering Regulations and associated guidance, in particular the [guidance for the accountancy sector](#) published in August 2008 together with the [supplementary guidance](#) for those providing tax services which was published in June 2009. Both the guidance and the supplementary guidance are approved by HM Treasury and the latter was also issued by HMRC.
18. Finally, all ICAEW members must maintain high standards. Where members fall below the standards expected they may be subject to ICAEW's disciplinary scheme which may lead to sanctions which could include fines and exclusion (see paras 39 to 44).

Testing tax knowledge

19. The ICAEW ACA qualification comprises two stages - the Professional Stage and Advanced Stage modules. There are 15 exams - 12 at the Professional Stage and three at the Advanced Stage, as below.



20. The diagram above shows the twelve modules at the Professional Stage, where the focus is on the acquisition and application of technical skills and knowledge, and the Advanced Stage which comprises two technical integration papers (lasting 3.5 hours each) and a case study (lasting four hours).
21. The syllabus has been designed to develop core technical, commercial, and ethical skills and knowledge in a structured and rigorous manner. Progression through the ACA modules, in combination with integrated and monitored work experience, will equip and prepare students for the demanding multi-disciplinary case study. This final module assesses the highest level of analysis, synthesis and communication skills, commercial and ethical awareness and the application of professional judgement.
22. The detailed syllabus of the ACA can be found [here](#).

Maintaining tax knowledge

23. ICAEW members are required to maintain and develop their skills throughout their career through CPD. Members must confirm that they have done so every year by making a formal CPD declaration, which is monitored as part of the Practice Assurance review process.

24. CPD applies to all members who:

- do any accountancy-related work (paid or unpaid);
- do any other work for reward;
- act as a trustee or corporate director or who perform any role which carries with it similar financial/legal responsibilities; and
- plan to undertake any of the above activities in the future.

25. The overview sets out the requirements. ICAEW seeks to help members maintain their CPD through a full range of member support activities, including a series of regular publications and alerts, meetings, courses and events. ICAEW support for members in tax is centred on the Tax Faculty and its wide range of member support materials including access to help through the referral scheme. For further details, see the [Tax Faculty website](#). ICAEW randomly select members for review on an annual basis.

Abide by ICAEW rules - the code of ethics

26. Ethical behaviour plays a vital role in ensuring public trust in financial reporting and business practices and upholding the reputation of the accountancy profession. Under the ICAEW's Code of Ethics (the Code) members are expected to demonstrate the highest standards of professional conduct and to take into consideration the public interest. The Code applies to members, employees of member firms and member firms, in their professional and business activities, remunerated or voluntary. The Code has been derived from the [International Ethics Standards Board of Accountants \(IESBA\) Code of Ethics](#) issued in July 2009 by the International Federation of Accountants so provides an internationally agreed Ethical Code and framework.

27. A member's responsibility is not exclusively to satisfy the needs of an individual client or employer. The principle of professional behaviour imposes an obligation on all professional accountants to comply with relevant laws and regulations and avoid any action that the professional accountant knows or should know may discredit the profession. This includes actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant at that time, would be likely to conclude adversely affects the good reputation of the profession.

28. The Code sets out five fundamental principles, which guide members' behaviour. These are:

- **Integrity** - To be straightforward and honest in all professional and business relationships.
- **Objectivity** - To not allow bias, conflict of interest or undue influence of others to override professional or business judgements.
- **Professional competence and due care** - To maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.
- **Confidentiality** - To respect the confidentiality of information acquired as a result of professional and business relationships and not to disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose.
- **Professional behaviour** - To comply with relevant laws and regulations and avoid any action that discredits the profession.

29. Tax is not a regulated activity in the UK, although the tax code itself provides an extensive regulatory framework for the preparation and submission of tax returns and associated behaviours that is backed up by an extensive penalty regime for non-compliance. ICAEW members undertaking tax work must comply with all the regulations, standards and guidance (including the Code of Ethics) referred to above.

30. As regards tax, the Code of Ethics is supplemented by [the Professional Conduct in relation to Taxation](#) rules (the Guidance). The Guidance is a pan professional guidance note adopted by ICAEW as one of the participating bodies.
31. The Guidance has been in existence for many years and updated on a regular basis. The latest version was published on 4 January 2011, replacing the previous update of September 2006. The 2011 Guidance is currently in the early stages of being updated and it is hoped that an updated Guidance will be published later in 2013. As part of the review processes, the Guidance is reviewed by independent Counsel and also by HM Revenue and Customs.
32. While the Guidance is addressed primarily to members in a professional practice, the principles apply to **all** members whether or not they are in practice. The Guidance sets out how a member must comply with the five fundamental principles set out in para 28 above when undertaking tax work.

Practice Assurance

33. Practice Assurance (PA) is a scheme of practice review designed to ensure ICAEW members have in place appropriate professional standards and processes and involves a system of annual returns, desk-top monitoring and risk based assessment. PA covers the quality processes of a firm, rather than the technical quality of its output. In addition, all firms are subject to periodic reviews by the ICAEW's Quality Assurance Department (QAD). It provides members in practice with a framework of quality assurance principles to help them assess and develop their practices. There are four principles-based standards that support PA, namely:
- laws, regulations and professional standards;
 - client acceptance and disengagement;
 - competence; and
 - quality control
34. The detailed PA regulations can be found [here](#) and associated guidance [here](#).
35. Guidance on the Practice Assurance standards is intended to help firms interpret and follow the principles-based standards. It sets out examples of best and acceptable practice. The latest version of the guidance was updated in February 2012.
36. The QAD conducts monitoring reviews of firms that fall within the scope of the PA scheme. Depending on the size of the particular firm, PA may take the form of:
- [an on-site visit](#);
 - [attendance at a surgery](#);
 - [a review by phone](#); and
 - [a desktop review](#)
37. Most of the firms are selected on a routine basis over a cycle of four or eight years depending on their size. Some reviews, however, may result from an analysis of the firm's annual return or because other information has come to ICAEW's attention, for example complaints.
38. The total number of reviews undertaken in 2012 was 1,930.
39. All reviews are subject to rigorous internal quality control procedures and reviews where there are concerns are referred to the Practice Assurance Committee (PAC) for consideration. The PAC does not have powers of sanction but can refer the firms to the Professional Conduct Department (PCD) if appropriate, which will instigate an investigation with subsequent referral to the Investigation Committee (IC). The PAC can also require the firm to submit further information, commission an external review or have a follow-up visit from QAD at the firm's expense.

Maintaining high standards – and the disciplinary process

40. ICAEW expects its members to maintain the highest standards of practice and professional conduct. These expectations are backed up by a system of monitoring and enforcement. ICAEW members who are in doubt as to their ethical position may seek advice from the following sources:
- [Ethics Advisory Services helpline](#)
 - [Money Laundering helpline](#)
 - [Support Members Scheme](#)
41. ICAEW is committed to enforcing the Code through disciplining members who do not meet reasonable ethical and professional expectations of the public and other members. Failure to follow the Code may result in a member becoming liable to disciplinary action.
42. ICAEW assesses all complaints to determine if they constitute a disciplinary matter. The ICAEW has **detailed** rules and regulations covering the investigation of complaints, disciplinary action and appeals and a range of sanctions.
43. Complaints against members are dealt with in one of two ways. Full details of the procedures can be found at [Make a complaint to ICAEW](#). For important cases in the public interest, the investigative and disciplinary body is the [Conduct Committee of the Financial Reporting Council](#). ICAEW is one of six participants.
44. Other cases will be referred to the ICAEW's investigation committee which may then be referred for action under the Disciplinary Bye-laws.
45. Disciplinary orders and decisions made under ICAEW's bye-laws have to be published unless the member receives a caution. Published decisions are placed on ICAEW's website for 12 months but the full record will be available to the public on request indefinitely. ICAEW makes copies of these reports available to the accountancy press, so details of ICAEW's disciplinary orders and regulatory decisions are often reported on other websites.

ADDRESSING CONCERNS ABOUT POOR WORK

46. We recognise that there may be some occasions when the standards of work of our members may fall below that expected. HMRC has a legitimate interest in ensuring that high standards are maintained by ICAEW members: poor work reflects badly on ICAEW and the ability of HMRC to place reliance on ICAEW members that taxpayers are paying the right amount of tax at the right time.
47. ICAEW receives very few complaints about tax work, whether from HMRC or dissatisfied clients. There is an existing gateway in ss 18–20, Customs and Revenue Act 2005 that allows HMRC to disclose information to a body such as ICAEW. This allows HMRC to make a disclosure to ICAEW where there is suspected misconduct.

CONCLUSION – PUBLIC CONFIDENCE IN ICAEW MEMBERS AND FIRMS ENGAGED IN TAX

48. The above framework is designed to demonstrate to the public (which includes HMRC) that ICAEW registered firms undertaking tax work are competent, that they abide by recognised codes of conduct and rules, and that there are procedures and processes in place to address problems when they arise.
49. HMRC should therefore be able to place reliance on a registered ICAEW Chartered Accountancy practice undertaking tax work that they are performing competently to a good standard. As HMRC develops its agent services and improves its risk assessment procedures, it should be able to factor this assurance into its processes so as to ensure that it concentrates its own resources on those areas of higher risk.

50. While very few cases of poor tax work are brought to our attention, ICAEW takes any such concerns very seriously. Where HMRC identifies cases of poor work, ICAEW will work with HMRC to ensure that such concerns are addressed in a proportionate way with the emphasis on supporting members to improve voluntarily.
51. Our conclusion is that in times of limited budgets and stretched resources, HMRC can and should be able to place reliance on the work done by ICAEW members within its risk assessment processes. ICAEW recognises that in those rare cases where poor work by ICAEW members is identified, then these need to be addressed. This will allow HMRC to focus its efforts and scarce resources on those tax agents who are likely to pose significantly higher risks to the public purse. This sector will include the 30% of tax agents that according to HMRC statistics are not affiliated to a professional body.

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