



# RELIANCE ON ICAEW FIRMS UNDERTAKING TAX WORK

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**A summary of the compliance framework and standards required of ICAEW practising members and firms undertaking tax work. This is an updated paper which was first published as TAXREP 32-13 in May 2013.**

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## INTRODUCTION

1. This paper is based on a document first published in 2013 and its purpose is to set out the training and standards undertaken by ICAEW members and highlight why HMRC should work with the tax profession and bodies such as ICAEW to develop a new agent strategy which gave proper credit for, and placed greater reliance on, the work and standards of ICAEW members who practice tax. As part of the raising standards agenda, in November 2020 HMRC announced a programme of work aimed at working with the professional bodies to raise standards. The professional bodies, including ICAEW, have been engaging with HMRC on this agenda and given that most of the principles that underlined the 2013 paper remain relevant to the 2021 discussions, ICAEW decided to revise and update the 2013 paper to reflect the position as at 2021.

## 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. To be in public practice, ICAEW members have to satisfy high professional standards, both to become a member and then to maintain those standards in their daily work. We believe that that promoting high professional standards in Chartered Accountants who practice tax is in the public interest. It helps ensure that taxpayers are properly advised on their tax affairs and helps improve tax compliance by ensuring that they pay the right amount of tax at the right time. This is an extremely important and valuable foundation upon which the UK tax system is built and it supports trusts and confidence in the tax system. In the move to digital systems and with budgets under pressure as the UK recovers from the Covid-19 pandemic, we believe that HMRC should be able to build on this foundation and place greater confidence on the role undertaken by our members in improving tax compliance.
3. HMRC has been in detailed discussions with the tax profession about the development of an agent strategy for many years. During that time there have been a number of initiatives and consultation documents, most recently with the raising standards consultation in 2020 and the follow up proposal that those who provide tax services should hold compulsory PII. However, there has been little tangible progress on identifying a shared vision of what a good tax agent should look like and how good tax agents might be given appropriate credit for the positive role they play in improving tax compliance.
4. HMRC and professional tax agents such as Chartered Accountants have been on the front line in supporting businesses and taxpayers through the Covid-19 pandemic. We believe that the experiences from the pandemic have helped to foster greater trust between HMRC and the tax profession and a better understanding of the positive and beneficial role that professional tax advisers play in supporting tax compliance and the UK tax system more generally. As we move on from responding to the Covid-19 pandemic to building the recovery, the time has come to develop a new tax agent strategy. This strategy needs to build on the strengths of HMRC and the role of Chartered Accountants who practice tax. The strategy needs to recognise the important role ICAEW member firms play in improving tax compliance and that this needs to be recognised appropriately. With the roll out of making tax digital and digital services the agent strategy needs to promote the role of professionally qualified tax agents which recognised that professionally qualified tax agents improve tax compliance and make the tax system work.
5. We appreciate that with over 12,000 member firms, some problems will 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. As part of its agent strategy and the raising standards agenda, ICAEW stands ready to work with HMRC to identify and address problem areas and how these can be addressed within the existing frameworks based

around the ICAEW's Code of Ethics and the joint bodies' Professional Conduct in Relation to Taxation rules.

6. This approach will enable HMRC to concentrate on those areas of the tax system, including advisers, who present a higher risk profile. ICAEW believes that HMRC should concentrate its scarce resources and monitoring on that segment of the tax agent population that poses the greatest risk to the integrity of the UK tax system, which will include the 30% of agents who are not members of a professional body.

## FACTS ABOUT ICAEW

7. ICAEW is a professional membership organisation, supporting over 157,800 chartered accountant members in over 147 countries. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.
8. 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 12,000 registered 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.
9. 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.
10. 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 to members including TAXline, a monthly journal, a weekly TAXwire, a consultancy scheme and a range of webinars and guides on a wide range of topical tax matters.
11. ICAEW acts as regulator in respect of the following activities (numbers of firms regulated in brackets):
  - Audit (2,561)
  - Air Travel Organiser's Licence (ATOL) (336)
  - investment business (1,921)
  - insolvency (842)
  - probate (342); and
  - anti-money laundering
12. Firms working in these regulated areas must comply with the relevant regulations for those areas and are monitored by ICAEW in respect of them. ICAEW is an independent regulator approved by the Legal Services Board under the Legal Services Act 2007 to accredit firms to provide probate and estate administration work to clients.

## ICAEW AND THE PUBLIC INTEREST

13. ICAEW operates under a **Royal Charter** (as granted in 1880 and reaffirmed and amended by a **supplemental Charter** granted in 1948) which sets out a desire to serve the public interest. Tax is specifically referred 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 27);
  - **maintain** Continuing Professional Development (CPD) and make an annual declaration of compliance that may be checked (paras 28 to 30); and
  - **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 31 to 41).
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 clients' money regulations; and
  - **register** their practice with ICAEW, submit an annual return and comply with ICAEW's Practice Assurance scheme (paras 42 to 48).
17. Member firms must comply with the Money Laundering Regulations and associated guidance, in particular the Anti-Money Laundering and Counter-Terrorist Financing Guidance (the Guidance) for the Accountancy Sector 2020 published on 8 September 2020 together with the supplementary anti money laundering guidance (the supplementary guidance) for those providing tax services which was published in July 2019. The Guidance is currently awaiting (expected) approval by HM Treasury. The supplementary guidance, to which HMRC is a co-signatory, is approved by HM Treasury.
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 49 to 54).

### TESTING TAX KNOWLEDGE

19. The ICAEW ACA qualification comprises three levels - Certificate, Professional and Advanced. There are 15 exams - six at the Certificate Level, six at the Professional Level and three at the Advanced Level, as below.



20. The six exams at Certificate Level introduce the fundamentals of accountancy, finance and business; the Certificate Level exams are each 1.5 hours long, have a 55% pass mark, and can be sat throughout the year. The next six exams at Professional Level build on the fundamentals and test students' understanding and ability to use technical knowledge in real-life scenarios; the Professional Level exams are 2.5 hours long, except for Financial Accounting and Reporting which is 3 hours long. Each exam has a 55% pass mark. Alternative exams are available for the Business Planning module; the Business Planning exams provide students with the opportunity to gain subject- and sector-specific knowledge while studying for the ACA. The suite of Business Planning exams is based on the same syllabus structure and skills framework, and will give students the opportunity to demonstrate their learning and use this in the context of taxation, banking or insurance.
21. The Corporate Reporting and Strategic Business Management exams test students' understanding and strategic decision-making at a senior level. They present real-life scenarios, with increased complexity and implications from the Professional Level exams.
22. The Case Study tests all the knowledge, skills and experience gained so far. It presents a complex business issue which challenges students' ability to problem solve, identify the ethical implications and provide an effective solution. The Corporate Reporting and Strategic Business Management exams are 3.5 hours long. The Case Study exam is 4 hours long. Each has a 50% pass mark. The Advanced Level exams are fully open book, so they replicate a real-life scenario where all the resources are at their fingertips.
23. The syllabus has been designed to develop core technical, professional, 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.
24. Tax is specifically assessed in three modules as follows:
- Principles of Taxation at Certificate Level; the module aim is to enable students to understand the general objectives of taxation and to calculate income tax, national insurance contributions, capital gains tax, corporation tax and VAT in straightforward scenarios.

- ii. Tax Compliance at Professional Level; the module aim is to enable students in straightforward scenarios to:
    - prepare tax computations for individuals and companies;
    - understand the tax implications of a course of action; and
    - explain potential tax treatments of transactions.
  - iii. Business Planning: Taxation at Professional Level; the module aim is to enable students to apply technical knowledge and professional skills to identify and resolve taxation issues that arise in the context of preparing tax computations and to advise on tax-efficient strategies for businesses and individuals. Students will be required to use technical knowledge and professional judgement to identify, explain and evaluate alternative tax treatments and to determine the appropriate solutions to taxation issues, giving due consideration to the needs of clients and the interaction between taxes. The commercial context and impact of recommendations will need to be considered in making such judgements, as will ethical and legal issues.
25. At Advanced Level the nature of the questions and marking keys is such that students will be rewarded for identifying strategic tax issues when looking at a wider business issue.
26. A summary of the 2021 ACA syllabus can be found [here](#). The detailed syllabus of the ACA can be found [here](#).
27. ICAEW and the Chartered Institute of Taxation (CIOT) have developed a joint programme which enables students to achieve both the ACA and the CTA in three to four years. The programme is a unique and efficient route for students who want to specialise in one of three areas in tax - taxation of major corporates, owner-managed businesses or indirect tax.

### **Maintaining tax knowledge**

28. 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.
29. 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.
30. 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, events and webinars. 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. ICAEW randomly select members for review on an annual basis.

### **ABIDE BY ICAEW RULES - THE CODE OF ETHICS**

31. 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 Code of Ethics for Professional Accountants](#) effective from June 2019 by the International Ethics



Standards Board for Accountants which provides an internationally agreed Ethical Code and framework.

32. 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.
33. The Code sets out five fundamental principles (the 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.
34. 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 applicable regulations and standards, including the Code of Ethics referred to above.
35. As regards tax, the Code of Ethics is supplemented by **the Professional Conduct in relation to Taxation** rules (the PCRT). The PCRT is prepared jointly by seven professional bodies and associations, including ICAEW, whose members work in tax. Compliance with PCRT is mandatory for members advising on UK tax matters. Members must be familiar with and comply with PCRT and a failure to do so may result in disciplinary action.
36. The PCRT in its current form has been in existence since the 1990s and has been updated on a regular basis. The PCRT sets out how the Fundamental Principles (see above) apply in a tax context and, as explained further below, these are now supplemented by five standards for tax planning. The PCRT is also supported by a number of supplementary help sheets.
37. In 2017 the PCRT was amended to reflect the PCRT bodies' response to the challenge set by the Government in 2015 "for the professional bodies to take a greater lead in setting and enforcing clear professional standards around the facilitation and promotion of tax avoidance". This was achieved by the inclusion into the PCRT of five new tax planning standards (the Standards).
38. These Standards support and clarify the application of the Fundamental Principles and include a specific standard that Members "must not create, encourage or promote tax planning arrangements or structures that: i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation; and/or ii) are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation".
39. The 2017 edition of the PCRT was republished in 2019 in a new digital format – the content was unchanged.

40. As part of the review processes, the PCRT is reviewed by independent Counsel and has been endorsed by HMRC as an acceptable basis for dealings between members and HMRC.
41. While the PCRT is addressed primarily to members in a professional practice, the principles apply to all members whether or not they are in practice.

## PRACTICE ASSURANCE

42. 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
43. The detailed PA regulations and associated support and guidance material can be found at the [ICAEW Practice Assurance Scheme](#)
44. 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 regulations came into effect on 1 July 2019.
45. ICAEW's 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](#);
  - [a review by phone](#); and
  - [a desktop review](#)
46. Most of the firms are selected on a routine basis over a cycle depending on their income. Some reviews, however, may result from an analysis of the firm's annual return, risk factors or because other information has come to ICAEW's attention, for example complaints.
47. On average we perform around 2,000 Practice Assurance reviews a year. ICAEW also undertakes PA work for third parties and other recognised supervisory bodies.
48. 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 has sanctioning powers but can also refer a matter to the Professional Conduct Department (PCD) for investigation with potential 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

49. 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](#)



50. 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. The regulatory and disciplinary functions of ICAEW are overseen by the ICAEW Regulatory Board (IRB) and its activities are separate from ICAEW's other activities. The IRB has 12 members and has an equal number of lay members and ICAEW Chartered Accountants. The chair and IRB members are all appointed using an independent selection process. The current chair is a QC.
51. 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.
52. 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.
53. Other cases will be referred to the ICAEW's investigation committee which may then be referred for action under the [Disciplinary Bye-laws](#).
54. 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

55. 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.
56. 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

57. 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.
58. 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 digital services for agents 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.
59. 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.

60. Our conclusion is that as the UK recovers from the pandemic and at a time when budgets are likely to be under pressure, HMRC can and should be able to place reliance on the work done by ICAEW members within its risk assessment processes. ICAEW recognises that where poor work by ICAEW members is identified, then it will need to work with HMRC to address them. If HMRC adopted this approach, it should 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.