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By email to: benjamin.jones@hmrc.gov.uk

Dear Mr Benjamin Jones

RE: CITY OF LONDON LAW SOCIETY'S RESPONSE TO "MODERNISING AND MANDATING TAX ADVISER REGISTRATION WITH HMRC"

Please find below The City of London Law Society's ("CLLS") response to the draft legislation on modernising and mandating tax adviser registration published by HM Revenue & Customs ("HMRC") on 21 July 2025.

INTRODUCTION

The CLLS represents approximately 22,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This response has been prepared by the CLLS Tax Committee.

The current members of the Tax Committee are listed at https://clls.org/committees/tax.html.

1. EXECUTIVE SUMMARY

There are significant concerns with the draft legislation arising from the consultation on *Raising standards in the tax advice market – strengthening the regulatory framework and improving registration* consultation published by HMRC on 6 March 2024 (the "Consultation"). The Consultation made clear that any intervention in the tax advice market must be "*proportionate to the harms observed and the benefits expected to minimise extra costs and burdens for the taxpayer, tax practitioners and their clients, and professional bodies".* When measured against this benchmark, the draft legislation falls significantly short.

Firstly, the accelerated timetable for mandatory registration from April 2026 is wholly unrealistic. The Consultation had suggested implementation might be possible in 2028, yet under the new timetable firms will have only a matter of weeks after the Finance Bill receives Royal Assent to determine whether they fall within scope, assess the eligibility of senior managers, and comply with registration requirements.

Secondly, the scope of the legislation is drawn far too widely. The definitions of *"tax adviser"*, *"clients"*, and *"senior manager"* extend the regime substantially beyond those genuinely engaged in providing UK tax advice. This risks encompassing amongst others: partners with no connection to tax advisory work, internal payroll teams and employing entities within law firm structures. In addition, Conditions A and B are drafted so broadly that firms could be disqualified from acting for clients due to minor administrative failings or by reference to standards that HMRC could unilaterally amend without consultation. Meeting such requirements would place a greatly disproportionate and ongoing burden on firms.

Finally, the draft regime undermines the existing regulatory framework. Professional bodies such as the SRA, ICAEW and CIOT already set standards, monitor compliance and impose sanctions. A parallel HMRC-led regime introduces the risk of conflicting obligations and undermines regulatory clarity. A more effective approach would be closer cooperation between HMRC and professional bodies.

We have set out our concerns with the proposed timetable and drafting of the legislation in further detail below.

2. CONCERNS WITH THE PROPOSED TIMETABLE

The Consultation contained little indication on when the timing of potential mandatory registration could take effect stating *that "implementation may be possible in 2028, although this may change as HMRC learns more during the early stages of development"* and that the *"government recognises that time will be needed to implement both mandatory registration and action to strengthen the regulatory framework"*. In light of these statements, it is both surprising and concerning that the government has now opted for an accelerated registration timetable, coming into effect from April 2026.

This accelerated timetable has not been consulted on and is woefully unrealistic and impractical. Businesses will not have certainty as to their obligations until the Finance Bill enacting the registration requirements receives Royal Assent. This will leave firms with, at best, only a few weeks to determine whether they fall within the definition of *"tax adviser",* and whether they and their senior managers meet the eligibility conditions. In order to carry out these assessments, firms will also need to be able to rely upon HMRC guidance (in final, not draft form), which is unlikely to be available much in advance of April 2026. Finally, HMRC will need to design, implement and test registration software and allocate and train staff to manage the new registration regime.

If the new registration regime is to proceed, its introduction should be deferred until April 2027 at the earliest. This would give tax advisers and other firms brought within the scope of the regime sufficient time to understand their obligations and carry out the required compliance.

3. OVERALL RECOMMENDATION: AN EXCLUSION FOR REGULATED FIRMS

As outlined above, there is a fundamental concern with the overall approach of the draft legislation, which calls for a reconsideration of the scheme's workability as a whole.

A more proportionate and better targeted model would be to exclude firms already regulated by an approved professional body (such as the SRA and ICAEW) from the definition of *"tax adviser"*. Under this model, the registration requirement would only apply to firms that (i) provide UK tax advice and (ii) are not otherwise subject to professional regulation by an approved professional body. HMRC could retain a reserve power to issue a notice requiring registration (subject to standard safeguards, for example a right of appeal for advisers) in cases where it has specific concerns that warrant direct oversight.

Such an approach would avoid duplicating existing regulatory obligations and reduce unnecessary burdens for firms that are already subject to high standards of professional oversight. It would also maintain regulatory clarity by ensuring that professional bodies remain the primary regulators of their members, whilst still providing HMRC with the ability to intervene when there is evidence of harmful behaviour or poor conduct. This balance would ensure the resources of both HMRC and firms are focused on addressing genuine risks, rather than imposing disproportionate, onerous and potentially unworkable compliance obligations on firms.

4. ANALYSIS OF KEY CLAUSES AND PROPOSED RECOMMENDATIONS

If, however, this or a similar model is not adopted, it is essential that significant changes are made to the draft legislation in its current form. The analysis below highlights the key areas of concern with the existing provisions and sets out a number of recommendations to ensure the registration operates in a more workable and proportionate manner.

4.1 CLAUSE 1(1) - DEFINITION OF "TAX ADVISER"

Clause 1(1) defines a *"tax adviser*" as a "*person who, in the course of a business, assists other persons with their tax affairs".* At present, this definition could extend beyond businesses that actually provide tax advice to clients. For example, it would capture the tax and payroll teams of all businesses.

This issue could also affect large commercial law firms, which can be structured with a division between the regulated entity that provides legal and tax advice to clients and a separate company or subsidiary that employs the staff. In such cases, the employing entity could fall within the definition of "*tax adviser",* and therefore be required to register with HMRC, despite not itself providing tax advice to clients.

RECOMMENDATION: NARROW THE DEFINITION OF "TAX ADVISER"

Clause 1(1) should be amended so that the definition of *"tax adviser"* only applies where assistance is provided in the course of a business whose activities consist of or include the provision of UK tax advice to clients. The definition should also expressly extend to persons, who, in the course of business, prepare or submit tax repayment claims on behalf of others. At the same time, the definition should make clear that it does not extend to individuals whose role is limited to filing statutory returns or compliance documents on a transactional basis (for example, the submission of SDLT returns by conveyancers where no substantive tax advice is given).

This would ensure that the registration requirement applies only to those who genuinely provide tax advisory services and repayment agents, without including employing entities or administrative support functions.

4.2 CLAUSE 3(1)(E) - GROUP UNDERTAKINGS EXCEPTION

Clause 3(1) provides that a tax adviser does not breach the registration requirement where they interact with HMRC in relation to the tax affairs of a person who is a *"group undertaking in relation to the tax adviser"*. As drafted, this exception is too narrow and would likely fail to extend to members of an internal tax, payroll or HR team, as those individuals are not themselves *"group undertakings"*. As a result, employees interacting with HMRC on behalf of their employer risk being brought within the scope of the registration requirement.

This issue could be resolved by narrowing the definition of "tax adviser", as recommended at 3.1 above.

4.3 CLAUSE 5(2)(A) - CONDITION A (OUTSTANDING TAX RETURNS OR TAX DUE)

Although there is wider concern with the breadth of the disqualifying factors in Condition A as a whole, Clause 5(2)(a) is of particular concern. The Clause requires that a tax adviser and each senior manager *"does not have any outstanding tax returns or amounts of tax due"*.

Given the current drafting of the definition of *"senior manager"* in Clause 21(2) (discussed further below), this could mean that, for a law or accounting firm constituted as a partnership or LLP, a

single partner's failure to file a personal tax return on time or to pay a personal tax liability, however small or immaterial, could result in the firm as a whole being prevented from interacting with HMRC on behalf of clients. Such an outcome would be deeply disproportionate. It would also have the effect of suppressing senior managers' legal freedoms, as an ongoing legal dispute could result in tax being treated as *"outstanding"*.

In addition, imposing compliance requirements on potentially hundreds of partners is a hugely burdensome exercise, and one which the draft legislation envisages being repeated annually. Many law firms do not have the practical ability (for example, through the terms of their partnership agreements) to compel disclosure of partners' personal tax affairs, creating both compliance and governance difficulties. If HMRC were to disclose to a firm details of a partner's personal tax affairs such as late or incorrectly filed tax returns, this could also give rise to significant data protection, GDPR and confidentiality issues for HMRC.

The draft clause goes beyond what is proportionate or workable in practice and fails to meet the first stated objective of the Consultation, namely to minimise costs and burdens for taxpayers, tax practitioners and their clients.

RECOMMENDATION: NARROW CLAUSE 5(2)(A)

Clause 5(2) itself should be narrowed to ensure the provision operates proportionately:

- It should contain a de minimis or no-fault carve-out for immaterial or administrative breaches (such as temporary late filings or estimated returns);
- It should make clear that tax under dispute with HMRC is not considered to be outstanding; and
- It should make clear that senior managers with an agreed time to pay arrangement or accepted 'reasonable excuse' remain compliant.

In addition, the definition of *"senior manager"* should be narrowed as suggested below to ensure that compliance obligations relating to individuals are appropriately targeted.

4.4 CLAUSE 5(2)(A) AND 5(5) - SCOPE OF TAX COMPLIANCE REQUIREMENT

Clause 5(5) extends the requirement in Clause 5(2)(a) for tax advisers and senior managers "*established in a territory outside the United Kingdom"* to taxes imposed under the laws of that overseas territory. This could pose significant difficulty for international law and accounting firms.

Partners in international law firms typically submit tax returns in multiple jurisdictions and the process is handled by accounting firms. Something going wrong in this process should have no bearing on the ability of the firm's tax partners to do their job.

RECOMMENDATION: LIMIT CLAUSE 5(5) TO UK TAX

Clause 5(5) should be amended so that "tax" only comprises taxes payable in the United Kingdom or any part thereof.

4.5 CLAUSE 5(3) - CONDITION B (STANDARDS EXPECTED OF TAX ADVISERS)

Condition B requires both firms and their senior managers to meet *"any standards expected of tax advisers in their dealings with HMRC"* as specified in a notice or other document published by HMRC. This drafting gives HMRC wide discretion to set and amend the standards unilaterally,

for example, by simply publishing a new notice on its website without any Parliamentary scrutiny or external consultation. This is not acceptable; if HMRC wish to set out standards of behaviour for tax advisers, these need to be set out in primary or secondary legislation.

Moreover, there is a strong risk of creating a double layer of compliance for firms already regulated by a professional body (for example, the SRA with law firms). Firms already regulated by a professional body will have to comply with both the rules of their primary regulator and a separate HMRC regime. This duplication could create conflicting obligations and undermine the authority of existing regulators.

RECOMMENDATION: REMOVE CONDITION B

In our view, Condition B should be removed in its entirety.

We also note that a more proportionate alternative approach was suggested in the consultation dated 26 March 2025 *Enhancing HMRC's powers: tackling tax advisers facilitating non-compliance*. This proposed broadening the scope of disclosures about the behaviour of tax advisers that could be made to professional bodies, strengthening the ability of those bodies to take appropriate regulatory action without the need for a parallel HMRC registration regime.

4.6 CLAUSE 21(2) - DEFINITION OF "SENIOR MANAGER" FOR A LLP OR OTHER BODY CORPORATE MANAGED BY ITS MEMBERS

As outlined above, Conditions A and B apply to both the *"tax adviser"* and each *"senior manager" of the adviser".* In respect of a LLP, a *"senior manager"* is defined as a member who *"exercises functions of management with respect to it, or a person purporting to act in such a capacity"* (as well as any shadow members). As currently drafted, this could be interpreted as including all the partners of a firm, not just those involved in providing UK tax advice.

It is unclear whether *"functions of management with respect to"* a LLP are limited to those with responsibilities for the overall direction and decision-making of a firm (such as the managing partners of the firm) or whether this extends to management responsibilities in relation to any part of the LLP's business. In the case of the latter, this could mean that partners responsible for a practice group, a regional office, or a particular function (such as HR or finance) might be treated as exercising *"functions of management with respect to"* the LLP. This may inadvertently bring within scope a vast number of individuals, many of whom have no involvement in tax advisory work.

RECOMMENDATION: AMEND THE DEFINITION OF "SENIOR MANAGER"

To ensure the measure is appropriately targeted, the definition of *"senior manager"* should be refined by the introduction of an additional limb requiring that a senior manager is directly responsible for the provision of UK tax advice or otherwise assisting persons with their UK tax affairs.

In the case of a commercial law firm, this would likely comprise the partners in the UK tax team. The existing limbs of the definition (for example, the requirement that the member exercises functions of management) should be retained so that the definition of senior manager continues to capture senior members of the firm. This change would ensure that only those individuals with genuine oversight and control of UK tax advisory work are subject to new compliance obligations, rather than capturing all partners or managers in a firm indiscriminately.

CONTACT DETAILS

Should you have any queries or require any clarifications in respect of our response or any aspect of this letter, please feel free to contact me by telephone on 020 7296 5783 or by email at Philip.harle@hoganlovells.com.

Yours faithfully

Philip Harle
Chair of the City of London Law Society Tax Committee