



# 'Tax Adviser' Checklist

Are your practice areas caught by the expanded definition in the Money Laundering Regulations 2017?

Department	Practice area	Is this advice tailored?*	Is this assistance or material aid?^	Third Party adviser?+	In or out of scope of MLRs and reason	Changes required (e.g. onboarding, training)?
e.g. Litigation	Catastrophic personal injury (advice on settlement trusts)	Yes	No	Yes – we instruct third party personal injury trust experts on behalf of the client	In scope	We cannot avoid being in scope because avoiding advice would be negligent/not in the client's best interests. <b>Treat as a fully AML regulated.</b>
e.g. Employment	Settlement agreements (tax implications for awards)	Yes	No	No – we direct the client to external advisers (e.g. accountant)	In scope	Previously treated as out of scope as non-transactional. <b>Now all settlement agreements should be treated as fully AML regulated.</b>

Note: these examples are not prescriptive. Firms must make their own decisions whether practice areas are caught by 'tax advice' and therefore in or out of scope. See *Resources*, below.



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<b>*Tailored advice</b>	Is it specific to this individual or niche? If pointing generically at HMRC website, it is likely not "tailored". If pointing at a specific part of HMRC website and saying to the client "this applies to you", then this is more likely "tailored". Telling someone "if you do X then your tax liability is reduced" would almost certainly be tailored advice.
<b>^Assistance or Material Aid</b>	Drafting documents, completing HMRC forms or filings, drafting or negotiating agreements including tax provisions etc.
<b>+Third Party</b>	If you instruct a third party tax adviser on behalf of the client, you are likely to be caught. If you tell the client to go and get separate tax advice (and maybe suggest some professional advisers), this is less likely to mean you are caught.

## Conclusions:

- Are any practice areas involving 'tax advice' brought within the scope of the Money Laundering Regulations, which were previously treated as out of scope?
- Actions which need to be taken as a result e.g.:
  - o notify SRA
  - o client onboarding changes
  - o staff training
  - o amending firm-wide risk assessment
  - o updating policies/procedures/controls)

## Action list:

- For each required action:
  - o Who is responsible?
  - o What is the budget?
  - o What is the project timescale?
  - o How do we measure effectiveness?
  - o When should we review progress?



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Date of review		Next review due	
Person(s) reviewing		Position(s) in firm e.g. MLCO/MLRO/COLP	
Date added to Firm Wide Risk Assessment		Need to notify SRA?	

## Resources

- [Article by Jonathon Bray, \*When is tax advice not tax advice? The implications for solicitors are no joke\*, 26 February 2021](#)
- [SRA Tax Adviser Guidance, 23 November 2020](#)
- [SRA Sectoral Risk Assessment - Anti-money laundering and terrorist financing, 28 January 2021](#)
- [Legal Sector Affinity Group \(LSAG\) – Anti-money laundering guidance for the legal sector 2021 \(Draft\)](#)
- [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#)