



**CORPORATE
CRIME
OBSERVATORY**

COMPLIANCE, AVOIDANCE, AND EVASION IN TAXATION: THE ROLE OF PROFESSIONALS

SESSION 3 THE DARK AREA



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THE ROLE OF PROFESSIONALS

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OVERVIEW AND METHODOLOGY

Throughout the research conducted as part of the EU-funded VIRTEU project,¹ which aimed to investigate the complex interconnections between tax abuses and corrupt practices, the role of tax professionals as facilitators of tax-abusive behaviors emerged as a crucial area of interest requiring further exploration. In light of this, the organizers of this event² – Prof. Diane Ring (Boston College Law School), Dr. Costantino Grasso (Manchester Law School), and Dr. Donato Vozza (Roehampton Law School) – have developed this research inquiry focused on this topic.

Specifically, the objective of this research-focused event is to explore the "dark" area of tax advisers' professional activities, characterized by unethical and criminal forms of conduct. It scrutinizes the participation of tax professionals or related firms in the perpetration of tax crimes by investigating both their failure to prevent clients from engaging in criminal activities and their direct involvement in committing these offenses. It also examines their role in a broader criminal context characterized by the intersection of tax crimes with other illicit activities such as money laundering, corruption, and organized crime.

This line of inquiry encompasses a cohesive and interconnected set of research questions, serving as the groundwork for subsequent investigations. These investigations will involve various components, including a systematic review of existing

¹ The main findings of the project VIRTEU, which include the technical reports and the video recordings of the research events, are available online at the following link: www.corporatecrime.co.uk/virteu.

² The event "*Compliance, Avoidance, and Evasion in Taxation: The Role of Professionals - The Dark Area*" will represent an international roundtable during which several high-level academics and experts will explore the key role played by tax professionals in the dark area. This research event follows the first roundtable entitled "*Compliance, Avoidance, and Evasion in Taxation: The Role of Professionals - The Bright Area*," which was held on Zoom on the 3rd of February 2023, as well as the two roundtables focused on the gray area: "*At the Crossroads of Tax Practices: Ethical Challenges and Democratic Issues*" and "*The Conundrums of Tax Professionals: Technology, Whistleblowing, and Ethical Decision-Making*" that were held respectively on September 8, 2023, and October 11, 2023. The video recordings of all the sessions are published online and accessible at the following link: www.corporatecrime.co.uk/professionals-tax-compliance-and-abuse.

literature and the research outcomes generated during the VIRTEU project research activities. The aim of this study is to contribute to the cumulative understanding of the current state of knowledge concerning the above-mentioned research topic.

By fostering an open discussion of these questions, employing an interdisciplinary approach, and exploring select subtopics, this event will provide a platform for high-level academics and experts to delve deeper into the subject matter. The researchers will build upon previous findings and integrate new perspectives, enabling a comprehensive examination of the main issues at stake. The organizers will then analyze the results, draw conclusions, and communicate their findings, with the ultimate goal of making significant contributions to the knowledge base in this specific field of research.

1) EVASION AND ENABLERS: THE DARK SIDE OF TAX PROFESSIONALS

This section explores the involvement of professionals in the dark area of taxation marked by unethical and criminal forms of conduct. It scrutinizes the participation of tax professionals or related firms in the perpetration of tax crimes by investigating both their failure to prevent clients



from engaging in criminal activities and their direct involvement in committing these offenses. The experts will discuss the methods employed by professionals to facilitate or enable these unlawful actions without facing legal consequences, potentially involving strategies to avoid detection or liability while still being complicit in or aiding criminal actions related to taxation. Furthermore, the session will focus on the ways to detect and punish the professionals, or their organizations, involved in such criminal activities to explore the legal approaches used to hold them accountable, including criminalization, investigative techniques, and other enforcement strategies. It will also examine the challenges encountered by professional associations, investigators, prosecutors, and judges when seeking to counter such behavior.

1. What are the most commonly involved practitioners that facilitate, enable, or participate in tax criminal activities (e.g., accountants, lawyers, auditors, notaries, financial advisers, and so on)? Specifically, what are their different roles and functions in the dark area?
2. In this context, could you discuss the circumstances in which professionals might directly or indirectly participate in tax crimes? What are the features of their involvement? Could you differentiate between the various dimensions of their involvement (e.g., acting as an accomplice, enabling, or facilitating)? Could you discuss the different levels of *mens rea*, such as negligence versus intent, involved in their actions? Could you briefly illustrate cases related to such different forms of involvement of professionals in tax crimes in your jurisdiction?
3. How do these professionals employ methods to avoid detection? Are there specific strategies that are commonly used to evade legal accountability? May the client-attorney privilege be abused in that regard?
4. As regards corporate involvement, may tax consulting firms be involved in illegal tax activities? If so, in what manner they may enable, facilitate, or participate? Could you provide some practical examples or mention a case that has occurred in your jurisdiction?
5. Which ways do law and accounting firms use to evade legal accountability when involved in tax-related offenses?
6. How effective are corporate compliance programs in preventing professionals from becoming involved in tax crimes? What limitations do these compliance programs have in mitigating such risks?
7. What role does technology play, either as an enabling or limiting factor, in the involvement of professionals in tax crimes?
8. Are there any shortcomings or gaps that you perceive in existing laws and regulations in countering tax professionals or firms' participation in tax crimes? Does the legal framework capture all the relevant forms of their involvement?
9. What are the common signs or red flags that indicate a tax professional or a related firm may be involved in facilitating or perpetrating tax crimes?
10. Could you discuss the investigative techniques most effective in detecting and gathering evidence against tax professionals involved in criminal conduct? What

are the challenges in using the most effective techniques including e.g., phone tapping, audio surveillance, and undercover operations?

11. Can you elaborate on other challenges encountered by investigators and prosecutors while building a case against professionals who are suspected of tax-related criminal activities?
12. How do judges approach cases involving tax professionals accused of criminal activities? Are there any specific legal complexities that arise during trials?
13. Are the various sanctions applied to professionals involved in tax crimes—such as criminal charges, fines, or professional debarment—effective deterrents? Are these measures being utilized adequately in practice?
14. How do professional associations in the fields of taxation and accounting respond to allegations against their members? What are the challenges they commonly face in holding their members accountable?
15. How crucial and effective are transparency measures and regulatory instruments in detecting and countering the involvement of professionals in tax crimes? In particular, what is the role played by whistleblowers and the limits of their legal protection?
16. What recommendation would you like to offer to strengthen the prevention and prosecution of professionals involved in tax crimes?

2) TAX CRIMES AND BEYOND: EXPLORING THE ROLE OF PROFESSIONALS IN INTERLINKED CRIMINAL OFFENSES

This section examines the role of professionals in situations where criminal activities present interlinks between tax crimes and other offenses such as organized crime, money laundering, and corruption. One of its primary objectives is to discuss and shed light on the role that tax professionals play in these complex, interconnected spheres of criminal conduct. In particular, this section explores how the nature and features of professionals' participation change when they are involved in these interconnected criminal practices, and assesses the societal risks posed by such dual or multiple involvements. A focus is placed on the evolving networks and relationships among professionals, clients, and financial institutions, especially as they relate to secrecy,

compartmentalization, and potential network expansion. Finally, it discusses the variances in investigative, prosecutorial, and judicial approaches when dealing with professionals implicated in these interrelated spheres of criminal conduct.

2.1 MONEY LAUNDERING AND TAX CRIMES

1. From a phenomenological perspective, how do professionals become involved in money laundering in conjunction with criminal tax schemes? What are the features of their involvement? Could you briefly illustrate a relevant case?



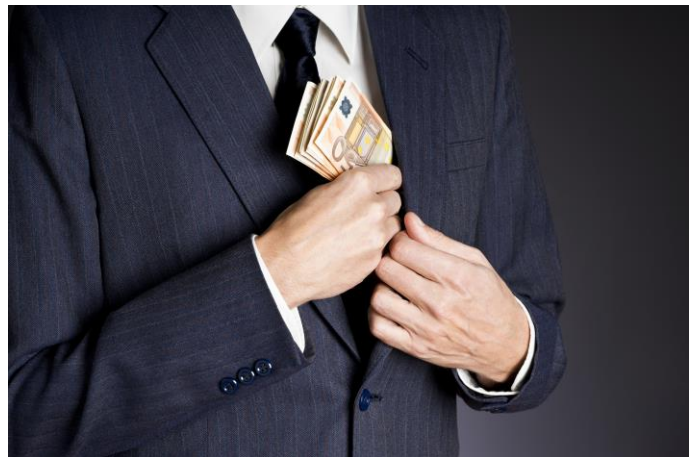
2. What are the most relevant methods or schemes used by professionals to engage in money laundering in connection with tax crimes?
3. Does the involvement of professionals in criminal activities related to taxation and illicit financial actions, such as money laundering, carry a greater risk of negative societal consequences, and what are the underlying reasons for these potential outcomes?
4. When professionals find themselves involved in money laundering in connection with tax offenses, what are the key dynamics that shape their networks and relationships, and how do these dynamics evolve as a consequence of their dual involvement in illegal activities?
5. When tax crimes and money laundering are interconnected, what role do the complexity of the financial system, the transnational nature of money flows, and the presence of large banks and financial institutions play? Specifically, how does this multi-layered environment enable professionals to distance themselves from criminal activities, thereby facilitating these activities without facing any consequences?
6. What are the various forms of negligent behavior (not intentional) exhibited by professionals that could potentially facilitate money laundering schemes, particularly in connection with tax evasion, through the services they provide,

and what measures should be implemented to effectively mitigate the associated risks?

7. What are the underlying issues and challenges associated with the remarkably low number of suspicious activity reports filed by professionals, despite their obligation to report such instances based on the AML regulations?
8. What are the key investigative, prosecutorial, and judicial differences in addressing professionals who are implicated in money laundering schemes interconnected with tax-related crimes rather than the ones involved merely in tax crimes?

2.2 CORRUPTION AND TAX CRIMES

1. Looking at the phenomenon, how do professionals become involved in both tax crimes and corrupt practices? In which ways do these two criminal phenomena interact with each other? Could you briefly illustrate a relevant case?



2. What are the most relevant corrupt schemes used by professionals to engage in tax crimes? What methods can tax professionals use to circumvent laws and regulations through tax crimes? In which way corrupt practices may be used to manipulate the taxation systems and the actions of the related authorities?
3. Based on your professional experience, what are the main drivers and incentives that motivate professionals to engage in corrupt practices in the field of taxation?
4. In these scenarios, what are the differences between corrupt practices perpetrated by individuals, corporations, or other powerful economic players?
5. Does the involvement of professionals in both criminal activities related to taxation and corruption carry a greater risk of negative societal consequences, and what are the underlying reasons for these potential outcomes?

6. When professionals find themselves involved in both corrupt practices and tax offenses, what are the key dynamics that shape their networks and relationships, and how do these dynamics evolve as a consequence of their dual involvement in illegal activities?
7. Adopting a wider conception of corrupt practices, could you explore scenarios where professionals could unduly influence the legal, economic, and societal environment, such as unethical lobbying and revolving door practices?
8. What are the key investigative, prosecutorial, and judicial differences in addressing professionals who are implicated in both tax crimes and corrupt schemes rather than the ones involved merely in tax crimes?

2.3 ORGANIZED CRIME AND TAX CRIMES

1. From a phenomenological perspective, how do professionals become involved in tax crimes and at the same time participate in, or assist, criminal organizations? What are the features of their involvement? Could you briefly illustrate a relevant case?



2. Does the involvement of professionals in both tax crime and organized criminal activities carry a greater risk of negative societal consequences, and what are the underlying reasons for these potential outcomes?
3. When professionals are involved in tax offenses and, at the same time, in activities carried out by criminal organizations, in which way does the presence of a criminal organization shape their relationships and networks?
4. In these scenarios, could you discuss cases of mafia-like organizations infiltrating the corporate structures, in particular of firms that provide consulting services in the area of taxation or that are involved in the management of money flows?



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The Corporate Crime Observatory is an international platform established by independent academics and experts from different countries and backgrounds devoted to promoting the analysis and discussion of corporate and economic crime issues as well as other forms of corporate irresponsible behavior around the world.

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