

Explanatory Note-Economic Crime (Anti-Money Laundering) Levy

Clause 1: Economic Crime (Anti-Money Laundering) Levy

Summary

1. This section establishes a new tax called the Economic Crime (Anti-Money Laundering) Levy (“levy”) and establishes that the Commissioners for Her Majesty’s Revenue and Customs (“HMRC”), the Financial Conduct Authority (“FCA”), and the Gambling Commission will be responsible for the collection and management of this tax.

Details of the clause

2. Subsection 1 establishes a new tax called the Economic Crime (Anti-Money Laundering) Levy.
3. Subsection 2 defines the role of an appropriate collection authority.
4. Subsection 3 sets out that the three appropriate collection authorities for the levy will be HMRC, the FCA, and the Gambling Commission. It establishes that: the FCA will collect the levy from the entities it supervises under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) (or ‘Money Laundering Regulations’); the Gambling Commission will collect the levy from the entities it supervises under the Money Laundering Regulations; and HMRC will collect the levy from all other entities that undertake regulated business under the Money Laundering Regulations. HMRC will therefore be responsible for collection of the levy from entities it supervises under the Money Laundering Regulations as well as from entities supervised by the Professional Body Supervisors listed in Schedule 1 of the Money Laundering Regulations. Where an entity is liable to pay the levy but is no longer supervised by the FCA or Gambling Commission, HMRC will become the appropriate collection agency.

Clause 2: Charge to Economic Crime (Anti-Money Laundering) Levy

Summary

5. This section establishes who is liable to pay the levy, the amount of levy that will be charged and when it should be paid.

Details of the clause

6. Subsection 1 establishes the circumstances for the levy to be charged in a levy year. The levy is only charged to those in the anti-money laundering (AML) regulated sector, (i.e. those who are already subject to the MLRs under 8(1)).
7. Subsection 3 will establish the levy amounts that will be charged to medium, large, and very large entities respectively. No specific amounts have been specified in the published draft legislation. Instead, indicative ranges have been included within which the specific amounts are likely to fall. It is important to note that the final figure in the legislation will not be a range- it will be a single figure.
8. Subsection 4 allows for entities' levy amounts to be proportionally adjusted should an entity only carry out regulated business for part of the levy year. This means that if a business ceases to carry on regulated business (or starts to) during the levy year it will not pay the full amount of the levy for that year.
9. Subsection 5 sets out that payment will be due after the end of the levy year in which chargeability arose. The exact payment date and method will be set out in regulations (see sections 7 and 13 for further detail on regulations).
10. Subsection 6 confirms that entities will be responsible for self-assessing the amount of levy that is due.
11. Subsection 7 sets out that no levy payment should be taken into account in calculating profits or losses for the purposes of income tax or corporation tax.

Clause 3: UK revenue: amount

Summary

12. This section establishes what classifies as a medium, large, or very large entity as determined by that entity's UK revenue.

Details of the clause

13. Subsection 1 establishes the classification of medium, large and very large UK entities.
14. Subsection 3 allows for the sums in subsection 1 be proportionally adjusted if the accounting period of the entity is other than 12 months.

Clause 4: Relevant accounting period

Summary

15. This section defines the relevant accounting period, as outlined in section 3, by reference to which an entity's size is determined.

Details of the clause

16. Subsections 2-3 set out what is meant by a 'relevant accounting period'.
17. Subsection 4 establishes the application of the legislation where there is more than one accounting period of an entity ending in a levy year.
18. Subsection 5 establishes the application of the legislation where there is no accounting period of an entity ending in a levy year.
19. Subsection 6 establishes the application of the legislation if an entity is incapable of determining a relevant accounting period with regards to this section.

Clause 5: UK revenue: determination

Summary

20. This section sets out how an entity's UK revenue is determined in a relevant accounting period.

Details of the clause

21. Subsection 2 sets out how a UK resident entity would determine its UK revenue.
22. Subsection 3 sets out how a non-UK resident entity would determine its UK revenue.
23. Subsections 4- 5 establish that when calculating their UK revenue, non-UK resident casinos should also include any revenue generated by activity that is within scope of remote gaming duty, even if that activity is not attributable to any permanent establishment of the entity in the United Kingdom.
24. Subsection 6 explains how references to a "permanent establishment" should be interpreted for the purposes of this section.

25. Subsections 7-8 define “revenue”.

Clause 6: Recovery

Summary

26. This section establishes that the levy is recoverable as a debt due to the Crown.

Clause 7: Assessment, payment, collection and recovery

Summary

27. This section makes provisions for details on assessment, payment, collection and recovery to be specified in regulations.

Details of the clause

28. Subsection 1 establishes that the Treasury may – by regulations – make provisions about the assessment, payment, collection and recovery of the levy, and make further provisions about the recovery of the levy.
29. Subsection 2 sets out the scope of the possible regulations noted in Subsection 1.
30. Subsection 3-4 set out the scope of provisions under Subsection 2 (b) and 2 (h).
31. Subsection 5 notes that regulations made under subsection 1 may take effect during the levy year in which they are made.

Clause 8: Payments into Consolidated Fund

Summary

32. This section establishes the requirements on the appropriate collection authorities in remitting levy monies collected.

Details of the clause

33. Subsection 1 states that levy monies collected through their respective populations by the Financial Conduct Authority and the Gambling Commission must be paid into the Consolidated Fund, subject to Subsection 2.
34. Subsection 2 states that the aforementioned organisations may deduct their reasonable administrative costs incurred before making payments under subsection 1.
35. Subsection 3 signals that details of the obligations of the HMRC Commissioners to pay into the Consolidated Fund can be found in section 44 of the Commissioners of Revenue and Customs Act 2005.

Clause 9: Application to partnerships

Summary

36. This section sets out how the levy applies to partnerships.

Details of the clause

37. Subsection 2 confirms that where a partnership has a separate legal personality, then the entity liable to pay the levy will be the partnership and not the individual partners.
38. Subsection 3 sets out that where the partnership does not have a separate legal personality, the responsible partners are jointly and severally liable to pay the levy. This provision allows such partnerships to register and pay their levy as if those partnerships were separate legal persons.
39. Subsection 4 clarifies that 'the responsible partners' mentioned in subsection 3 refers to all persons who were members of the partnership at any point during the levy year.
40. Subsection 5 sets out how a partnership (for the purposes of this Part) will be regarded in the case of any changes in membership within the partnership.

Clause 10: Collection of information

Summary

41. This clause amends the Finance Act 2008 to extend HMRC's existing powers under Schedule 36 of that Act to the levy.

Details of the clause

42. Subsection 1 inserts “Economic Crime (Anti-Money Laundering) Levy” to Schedule 36 of FA 2008 (powers to obtain information etc), in paragraph 63(1) (meaning of “tax”), so that the powers to obtain information in that Act can be exercised in relation to the Economic Crime (Anti-Money Laundering) Levy.

Clause 11: Disclosure of information

Summary

43. This section sets out how information may be disclosed by relevant parties in the functioning of the levy.

Details of the clause

44. Subsection 1 allows for an appropriate collection authority (i.e., HMRC, the FCA, or the Gambling Commission) to disclose information they either obtain or hold through their functions under the levy, with the parties listed in the legislation.
45. Subsection 2 prevents the further disclosure of information by a collection authority under subsection 1 without permission of that initial collection authority.
46. Subsection 3 allows for a supervisory authority which is not an appropriate collection authority (e.g., a Professional Body Supervisor of an entity in scope of the levy) to disclose information obtained or held by them to the appropriate collection authority (i.e., HMRC, the FCA or the Gambling Commission), or to an authorised officer of said appropriate collection authority.
47. Subsection 4 notes that information may only be disclosed under this section if it helps in the carrying out of functions related to the levy.
48. Subsection 5 confirms that no charge may be made for disclosure of this information.
49. Subsections 6-7 clarify the limits of scope of any disclosure.
50. Subsection 8 clarifies what is meant by an “authorised officer” in this section.
51. Subsection 9 establishes that any HMRC officer is to be deemed to be an “authorised officer” for the purposes of subsection 8.
52. Subsection 10 clarifies that “data protection legislation” in this section has the same meaning as the Data Protection Act 2018.

Clause 12: Power to make consequential provision

Summary

53. This section outlines the Treasury's ability to make consequential provisions on this Part through regulations.

Details of the clause

54. Subsection 1 explains that the Treasury will be able to make consequential provisions on this Part through regulations.
55. Subsection 2 sets out the extent of provisions that can be made on this Part through regulations under this section.

Clause 13: Regulations

Summary

56. This section sets out how any regulations made under the regulation-making powers of this Part may be made.

Details of the clause

57. Subsections 1-2 explain how regulations may be made and referenced to under this Part.
58. Subsection 3 notes that the power of the Treasury to make regulations under this part, other than regulations set out in 3(4), may instead be used by HMRC.
59. Subsections 4-5 necessitate that the Treasury consults with each appropriate collection authority before making any regulations under this Part, and that HMRC (if acting under subsection 3) also consult with the Treasury and the other collection authorities before making any regulations.
60. Subsections 6-7 clarify that any regulations under this Part must be made by Statutory Instrument, subject to negative procedure.
61. Subsection 8 sets out that regulations in relation to those listed below, must be made by Statutory Instrument subject to affirmative procedure:
- a) where sums (i.e., levy fees) are changed by more than what is necessary to reflect inflation;

- b) where changes fall under section 7(2) (k)- that is, a provision about the enforcement of the levy (including provision for the imposition of civil penalties or other sanctions for a failure to comply with a requirement imposed by or under this Part).

Clause 14: Interpretation

Summary

- 62. This section defines the terms used under this Part.

Details of the clause

- 63. Subsection 1 details the meaning of terms used in this Part.
- 64. Subsections 2 confirms how the territorial residency of a company or partnership is determined or treated under this Part.

Background note

- 65. The Economic Crime Levy was announced at Budget 2020. The levy will apply to the anti-money laundering (AML) regulated sector, with entities paying the levy as a fixed fee based on the 'size' band they belong to, determined by their UK revenue: small (<£10.2m), medium (£10.2m-£36m); large (£36m-£1bn); very large (>£1bn). Entities will pay higher fees the larger their size, except small entities which are exempt.
- 66. The fixed fees for this levy have not been specified in the published draft legislation, however indicative ranges have been included within which the specific amounts are likely to fall. The specific amounts will be included in the final legislation included in the Finance Bill.
- 67. The levy will first be collected in 2023/24 (Apr23-Mar24), with liable entities paying based on their size/UK revenue reported in periods of account ending in 2022/23.
- 68. This levy is intended to raise approximately £100 million per annum from the anti-money laundering (AML) regulated sector to help fund AML reforms.
- 69. The FCA, HMRC, and the Gambling Commission (GC) will collect the levy from their own AML-supervised populations, with HMRC also taking on collection responsibilities for in-scope entities supervised by the 22 legal and accountancy Professional Body Supervisors.
- 70. The government will undertake a review of the levy by the end of 2027. This would seek to take place after around three years of operation, and may consider matters such as whether the levy: is meeting its original policy objectives; should continue; should remain based on just the AML-regulated sector; and, is still being calculated and collected appropriately.
- 71. If you have any questions about this change, or comments on the legislation, please contact eclevyconsultation@hmtreasury.gov.uk

