Traditionally, a client has been able to discuss his financial or tax problems with his lawyer or accountant in strict confidence. Such a professional advisor would certainly not help a client carry out some illegal scheme, and he might even refuse to continue acting for the client altogether, but he would not 'blow the whistle' by reporting any wrongdoing to the authorities.

All that has now changed. The so-called 'money laundering legislation', which originally covered only drug dealers' profits and the activities of terrorists, has now been extended to include all crimes for gain. 'Money laundering' itself has been redefined to include not only introducing the proceeds of crime into the legitimate financial system, but also simply retaining the proceeds of any criminal offence.

In an accountancy context, it is important to remember that tax evasion – for example, the deliberate understatement of taxable business profits – is a criminal offence, even though it is rarely prosecuted. It is a crime for gain, covered by the new money laundering legislation, because the trader retains the money he should have paid in

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tax. Accordingly, if a client confesses that he has deliberately understated his profit, his accountant must make an immediate report to the Serious Organised Crime Agency, who will no doubt pass the information on to the H M Revenue and Customs.

It is a criminal offence, punishable by imprisonment, for the accountant not to make the report, or for him to warn the client that a report has been or will be made.

Nor is it only tax evasion which is in issue. A report would have to be made if, for example, an accountant discovered that a client had deliberately over claimed Tax Credits, or even if he had simply failed to insure a business vehicle (driving a vehicle without insurance is, technically, a criminal offence and the owner has retained the money he should have paid in insurance premiums).

There is no exemption for small amounts and, in the first case to reach the Courts, a senior Judge held that a solicitor should make a report if he discovered that his client (here a deserted wife in matrimonial

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proceedings) had deliberately over claimed Social Security benefits by as little as £10.

On the other hand, of course, mere carelessness or lack of attention when filling in Tax Returns and other official forms is not a criminal offence (even though it may be punishable by an H M Revenue and Customs surcharge or penalty). To be a crime, there must be a deliberate lie, or at least a deliberate attempt to mislead.

Our advice has always been that a client who realises he has provided incorrect figures to the H M Revenue and Customs should correct the position as soon as possible. H M Revenue and Customs have traditionally offered reduced penalties to those who come forward and co-operate in correcting any errors in their tax affairs.

In practice, those willing to accept our advice will not be affected by the new money laundering regulations.

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