

Tackling tax avoidance



Tax avoidance deprives the UK of the money it needs to fund public services and undermines public confidence in the fairness of the tax system. This briefing explains what we are doing to tackle tax avoidance, so that everyone pays their fair share of tax.

Paying a fair share of tax

The tax gap – the difference between what is owed and what is collected – is about £35 billion, which is eight per cent of the total amount of tax due. Tax avoidance accounts for 14 per cent of this gap – around £5 billion or one per cent of the tax due. International evidence suggests that this is probably one of the lowest tax gaps in the world. This is because the vast majority of UK taxpayers do not avoid or evade tax.

What is tax avoidance?

Tax avoidance is bending the rules of the tax system to gain a tax advantage that Parliament never intended. It often involves contrived, artificial transactions that serve little or no purpose other than to produce a tax advantage. It involves operating within the letter – but not the spirit – of the law.

Tax avoidance is not the same as tax planning. Tax planning involves using tax reliefs for the purpose for which they were intended. For example, claiming tax relief on capital investment, saving in a tax-exempt ISA or saving for retirement by making contributions to a pension scheme are all legitimate forms of tax planning. While such actions may reduce the total amount of tax paid, they are not tax avoidance, because they involve

using tax reliefs in the way that Parliament intended when it passed the relevant legislation.

A small proportion of taxpayers actively seek opportunities to avoid paying tax, and promoters of avoidance schemes often market them with promises of large savings and underplay the risks. HMRC relentlessly challenges tax avoidance and has a highly-successful record of defeating avoidance schemes in the courts. Taxpayers who enter into tax avoidance schemes can face years of uncertainty and cost as HMRC takes them through the courts, and run a high risk of having to pay the tax plus interest in the end.

If a scheme relies on concealment or providing false information to us, it will amount to tax evasion and may attract serious sanctions, ranging from financial penalties to a criminal conviction.

Tackling tax avoidance schemes

Our strategy is set out in *Tackling Tax Avoidance*, which was published alongside the 2011 Budget. It explains that our approach is to:

- prevent avoidance where possible
- detect it early where it arises, and
- counteract it effectively through investigation and legal challenge or legislative change.

In the 2012 Budget, the Government announced a range of additional measures to close tax loopholes, which will bring in around £1 billion in extra revenue and protect a further £10 billion over the next five years. The Government is also planning to introduce a General Anti-Abuse Rule (GAAR) aimed at deterring and tackling artificial and abusive tax avoidance schemes.

Prevention

The best way to tackle tax avoidance is to prevent it arising in the first place, by designing tax law effectively, underpinned by clearly-stated policy objectives. We consult widely with our customers wherever possible on the design of tax law before it is introduced to make sure that it is proportionate and effective.

DOTAS

The Disclosure of Tax Avoidance Schemes (DOTAS) rules are a key part of our anti-avoidance strategy and oblige promoters and users of tax avoidance schemes to provide early information to HMRC. This enables us to detect avoidance at an early stage and act fast. For example, we were able to advise the Government on closing down a major scheme in March 2012, only a week after it was disclosed to us.

More than 2,000 schemes were identified under DOTAS up to March 2012. This has resulted in more than 60 changes to the law, closing around £12.5 billion in avoidance opportunities. The Government plans to introduce further improvements to the DOTAS rules, subject to consultation. The proposals include more detailed reporting obligations on the promoters and users of avoidance schemes, and additional obligations on promoters who have incurred a penalty for a serious failure to comply with DOTAS in the past. Most recently, the Government legislated changes to the DOTAS rules to flush out users of certain Stamp Duty Land Tax avoidance schemes more effectively.

GAAR

The GAAR will act as a deterrent to those engaging in artificial and abusive avoidance schemes by improving HMRC's ability to tackle schemes successfully. The Government is currently consulting on its GAAR proposals, with the aim of devising an effective rule that deters and counteracts avoidance, ensures that taxpayers have sufficient certainty about the tax treatment of their transactions and avoids undue costs for compliant taxpayers and HMRC. Legislation is planned for 2013.

Tackling tax avoiders

Large businesses and wealthy individuals are the taxpayer groups who are most likely to engage in tax avoidance. We seek to reduce tax avoidance by developing an open and co-operative relationship with these taxpayers, using customer relationship managers. Our customer relationship managers are responsible for knowing the taxpayer's business and tax affairs thoroughly,

understanding the avoidance risks they pose and co-ordinating HMRC's interventions.

We resolve tax disputes in a way that secures the right tax liability consistent with the law, fairly and even-handedly across all taxpayers. In the vast majority of cases, we reach agreement with our customers about the right amount of tax due. But where we cannot reach an agreement, we will take the matter to the courts to decide.

It is important that our customers know that if they choose to engage in tax avoidance we will be relentless in pursuing them. Many promoters of tax avoidance schemes promise large tax savings, and will often say their scheme is completely legal and unlikely to be challenged by us. But we will challenge tax avoidance and will take legal action against schemes whenever possible. Instead of the tax savings they hoped to achieve, people who use tax avoidance schemes run the risk of wasting money on fees for a scheme that does not work, and will have to spend time dealing with an in-depth investigation by us into their tax affairs. Taxpayers may find themselves being cross-examined before a tax tribunal and having their tax avoidance exposed to public scrutiny when the tribunal's decision is published.

We warn people of the risks of entering into certain marketed tax avoidance schemes in our [Spotlights](#) publication on the HMRC internet site.

How effective is our approach?

Our approach to cracking down on tax avoidance protects or recovers billions in tax that would otherwise be lost. For instance, in July 2011 the National Audit Office reported that enquiries involving large businesses, which were managed through our High Risk Corporates Programme, had saved more than £9 billion in revenue to March 2011 and had "contributed to reduced avoidance activity by major companies". Since 2010, HMRC has contested around 30 direct tax avoidance cases in the courts and has so far successfully protected about £4 billion in tax. During the same period, wins in 15 major indirect tax avoidance cases have protected an additional £750 million.

In May 2011, we won a highly-significant tax avoidance case at the Supreme Court, which protected about £1.8 billion in tax revenue. The Tower MCashback scheme involved claiming capital allowances on software funded by finance on highly artificial terms from banks. The borrowed funds were used as part of the tax avoidance scheme to allow users to claim tax relief that was greater than their original investment. In July 2012, we won another major tax avoidance case at the Court of Appeal, where the taxpayer had paid more than £200,000 in fees for a scheme that failed. The taxpayer also had to pay the tax he had tried to avoid.

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