

**TAX
AVOIDANCE –
WHAT YOU
NEED TO KNOW
ABOUT IT**

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Tax Avoidance Fact Sheet

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Tax intelligence
from LexisNexis®

What the term 'tax avoidance' represents can boil down to a matter of opinion. What is legitimate tax planning for one taxpayer can be seen as tax avoidance by another.

However, the terms 'tax avoidance' and 'tax evasion' have often been used interchangeably in recent media coverage. Understanding the difference between evasion and avoidance is important. There is a clear distinction and it does matter.

Below are some definitions of these terms and some other common tax terms.

Tax compliance is where a tax professional ensures that their client fulfils their legal obligations to pay the amount of tax due on their income and gains and complete the necessary administrative requirements.

Tax advice is where a tax professional advises their client on the tax implications of their affairs, in accordance with the law. This may include giving opinions on the potential different interpretations of the law.

The role of tax compliance and advice

Under self-assessment, the burden of a complex tax system falls primarily on the taxpayer. Tax professionals are essential in ensuring that taxpayers are properly represented and suitably advised.

Tax planning is tax advice that seeks to reduce tax liabilities through the use of reliefs or differences in the tax treatment between types of income or expenditure.

Tax avoidance involves the use of **artificial** arrangements or structures which serve no purpose other than to minimise the tax liability.

Tax planning or tax avoidance?

Tax planning is achieved through reliefs and differences in rates which were intended by Parliament. **Tax avoidance** is often considered to be achieved through exploiting reliefs and differences in a way which was not intended by Parliament.

Whilst the intention of Parliament may be a consideration, the judiciary determine how tax legislation should be interpreted. This is why **tax compliance** and **tax advice** are always based on the judiciary's interpretation of the law, not just the intention of Parliament.

This is why distinguishing what is '**artificial**' is difficult and determining what tax avoidance is can be a subjective matter.

Tax evasion is where a "person is knowingly concerned in the fraudulent evasion of tax by that or any other person". It is a deliberate act of deception which reduces tax payable or increases tax repayable. Tax evasion is a crime which can result in imprisonment of up to 7 years, as well as a fine.

Tax evasion or tax avoidance?

Tax evasion is distinguished by criminal action and intention. Whilst many people see no distinction in the outcome, namely a reduction in tax paid, **tax avoidance** never involves a deliberate act of deception.