

Tax evasion versus tax avoidance



Tax avoidance is legal mechanism used to minimise the amount of tax due. Tax evasion is a deliberate act to cheat the Exchequer.

Over the years, there has been considerable blurring of the edges of the difference between tax avoidance and tax evasion.

The facts behind each matter need to be considered in full and corrective action taken if necessary.

Examples of tax avoidance:

These matters can include:

- Companies contributing to an Employee Benefit Trust
- Individuals subscribing to a film partnership
- Trusts set up for a charitable purpose
- One entity performing a service whilst another is paid for that service

A tax avoidance scheme is designed to act within existing tax laws. Some tax avoidance schemes effectively “create” an artificial picture such as paper losses. The benefit to a taxpayer is to reduce the amount of tax due by offsetting these losses.

Examples of tax evasion:

These matters can include:

- Understating taxable profits by either not declaring all the income or overstating the expenditure
- Concealing assets (i.e. money) in an offshore bank account

What are the consequences?

- If a tax avoidance scheme does not work then all the tax becomes payable (the Potential Lost Revenue or PLR), together with interest and sometimes a penalty of up to 30% of the PLR.
- If a taxpayer is suspected of committing a tax fraud then in the most serious cases, HM Revenue & Customs may consider prosecuting the taxpayer. All the tax and interest is due to HM Revenue & Customs in addition to any sentence applied upon conviction by the courts.
- If a taxpayer is suspected of committing a tax fraud but H M Revenue & Customs are not seeking to prosecute, they will seek the payment of all the taxes evaded with interest and a minimum penalty of 70% up to a maximum of 100% of the PLR
- Any penalty can be doubled where the income or gain arises outside of the UK.

How Haines Watts can help

We will advise on how HM Revenue & Customs may view the matter as either tax avoidance or tax evasion.

If the matter requires correction, we can advise how this may be done.

Haines Watts can advise you on how to organise your UK tax affairs in order to suit your current or future needs whilst being fully tax compliant.

To find out how Haines Watts can help, call Paul Malin on + 44 (0)7919 375 650 or email pmalin@hwca.com anytime