

## Tax avoidance is a state of mind

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[Tax inspectors to clamp down on people 'before they break law' - Telegraph.](#)

There's lots of fury amongst accountants today. The Telegraph says:

*New guidance from HM Revenue and Customs now defines tax avoiders as those seeking to pay less tax than "if Parliament turned its mind to the specific issue in question".*

*The rules are likely to lead to tens of thousands of people who arrange their financial affairs in perfectly legal ways being investigated by tax inspectors.*

This is all the result of a new HMRC code of practice for tax inspectors. It says

*Avoidance is not defined in the Taxation Acts. One definition is 'a situation where less tax is paid than Parliament intended, or more tax would have been paid, if Parliament turned its mind to the specific issue in question'. At a practical level the problem is then essentially one of deciding what Parliament would have intended and identifying who should be asked to decide this.*

*Inspectors need to have in simple terms a working concept of 'avoidance' in order to properly identify cases which can be worked. The starting point should be that one would normally expect taxpayers to pay tax on their income or profits. It is reasonable to assume that where a commercial transaction is carried out in a particularly convoluted way, then avoidance is afoot.*

Which seems so obvious how could anyone disagree? Well, accountants are.

*Last night, accountants and lawyers described the rules as a "wholly unwarranted extension" of HMRC's powers which threatened to undermine the democratic right of Parliament to set the law.*

Which I'll show, in paper to be published here tomorrow, is complete nonsense. Tax can only be collected by law: this does not change that at all. The claim by the tax profession is, to put it nicely, pure twaddle.