

# Funding the Future

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I've just posted a blog on why we need a real general anti-avoidance principle in UK tax law. There's [a PDF of it here](#).

This is something I have argued for for some time - longer than most in this country. And I am more convinced than ever that we need one now. The latest reports on thousands of people in what are really employments getting round tax law by being paid through companies - when this is obviously a ruse to save them and their employers tax and national insurance - proves how widespread this need is. And I very strongly contend that it's neither anti-competitive, nor a source of uncertainty in the UK tax system to say this.

People in employment should be taxed as if they're in employment under UK tax law, or as [H M Revenue & Customs say](#):

*If these requirements are not met it creates unfair competition between those businesses that meet their responsibilities and those that do not. It also creates unfairness where, for instance, two workers engaged on the same project and performing the same tasks for separate businesses are not paying the same tax and NICs due to the incorrect classification of one of them.*

So it's fundamental to tax justice that this happen. And yet despite [there being law to try to enforce](#) this as is very obvious this type of abuse goes on. A [general anti-avoidance principle of the type I propose](#) would stop this because if there was, under the arrangement I suggest:

- 1) a series of transactions; which are
- 2) pre-ordained; and
- 3) into which there are inserted steps that have no commercial purpose apart from tax avoidance,

then the artificial step(s) would be ignored. In the case of these false consultancy arrangements that artificial step is inserting a company into what was really an employment relationship. The risk in such a case would also, appropriately, be on the

employer who had not applied PAYE who would then have to make good the shortfall to HMRC, maybe taking into account what the recipient company of the employee had paid, if any.

But let's be clear, this general anti-avoidance principle does not stop in this case:

- 1) people genuinely self employed running a business through a company;
- 2) people genuinely self employed running companies paying themselves by dividend, which remains a wholly legal activity albeit one that has attracted government attention in the past.

For both of these issues, and the sensitive issue of paying spouses who (in my experience) frequently do contribute to the management of self employed businesses primarily run by their partners I have offered a much broader solution, which would [bring small business tax into the twenty first century, here](#).

But I stress, those issues are largely unrelated to the abuse of companies to avoid PAYE obligations (although curiously many on the political right seem quite unable to differentiate them). That is why different solutions are needed for each of them.

But of the two it is apparent that the abuse of employment law is the more important now and if ever there was a reason why the UK needs a general anti-avoidance principle and not the extraordinarily limited general anti-avoidance rule Graham Aaranson has recommended, then this is it.