

Tax avoidance: a quick definition

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I've been asked what tax avoidance is.

HM Revenue and Customs has suggested that tax avoidance is identified by “transactions or arrangements which have little or no ‘economic’ substance or which have tax consequences not commensurate with the change in a taxpayer’s (or a group of related taxpayers’) economic position.”

That's not bad, but I prefer to compare tax avoidance, which is hard to define, with tax compliance which I find easier to define. Tax compliance is seeking to pay the right amount of tax (but no more) in the right place at the right time where right means that the economic substance of the transactions undertaken coincides with the place and form in which they are reported for taxation purposes.

In that case tax avoidance happens whenever someone chooses a course of action which results in the wrong amount of tax being paid, in the wrong place and at the wrong time.

But remember - you can't be avoiding tax if you claim a relief parliament intended - such as paying into an ISA. That's still paying the right amount of tax. So, in that case avoidance always requires that you seek to go round the law - which is literally of course what to avoid something means. And going round the law is what Jimmy Carr's advisers did. It remained legal but not in a million years was it ethical.