

The answer to Chris Moyles is prosecute the advisers

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I gave not redacted full decision in what will now inevitably be called the Chris Moyles tax case. I have read parts. It seems that [this Guardian summary is fair](#):

Moyles, who billed himself as the "saviour of Radio 1" before he quit as presenter of the breakfast show in 2012, claimed to have run up £1m of losses selling £3,731 worth of used cars. He tried to offset the claimed £1m loss in the 2007-08 financial year against tax he owed on his other income, including an estimated £700,000 salary from the BBC, which is funded by licence fee payers.

What happened was that Moyles was sold a tax avoidance scheme, apparently by one adviser but which was created by another adviser. About 450 were sold the scheme. Supposedly the people in question traded in second hand cars. As a result it was claimed they borrowed money. Costs relating to those loans were artificially inflated using arrangements that involved BVI companies. The whole arrangement lacked any commercial substance according to the tax tribunal decision now made. The losses have now not been allowed for tax purposes and tax will be due.

Moyles will suffer considerable embarrassment as a result of this, and so he should. He went out of his way to save tax and his instincts must have told him the scheme was artificial. He should have realised that this had to be abusive. He has revealed his own greed and that he believes his own self interest comes above any obligation to the society of which he is a member. People won't like that.

But the truth is that it is the advisers who are most at fault here. A now notorious firm of advisers created these schemes and others sold them. Moyles was foolish but these advisers knowingly created and sold tax risk with the intention of undermining the tax revenues of the UK. I believe that this should be a crime.

The creation of tax risk - a knowingly uncertain tax position created with the main or sole aim of securing a gain - can be defined. The taking of advice on the risk is the evidence of intent. It is quite distinct from the taking of advice to mitigate risk in a commercially existing situation, which is an entirely reasonable thing to do. There is no

risk of confusion. And the process of sale - whether externally to clients or internally by the creation of structures within a group of companies - is identifiable. This makes all the triggers for a crime prosecution achievable.

I would hope the whole tax profession would support the creation of such a crime; we can do without people creating and selling such risk.

NB [Thanks to David Quentin for ideas on tax risk](#)