

The decision in the Moyles case - and what has to be do...

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Many are saying on this blog and elsewhere that the arrangements in the Moyles case were tax evasion, not avoidance. I think what the case actually proves is how meaningless the distinction between those two is, and how nebulous the concept of legal tax abuse has become. As [I have already said](#), an alternative approach to the creation of deliberate tax risk is now needed.

What is do think useful is to share the key paragraph of the decision, [which is as follows](#) :

I think when a decision involves the phrase "as though by magic" the Judge is getting as close as he can to saying this scheme has crossed a boundary. That may be one of credibility. It may be something more. He did not say.

What I say is that even if the General Anti-Abuse Rule would have dealt with this case to [the fact that it has no penalty provisions within it renders](#) it useless to deal with the consequences. I argued for such penalties throughout my involvement with that rule.

I [also argued for a broadly based general anti-avoidance principle](#) based on motive and not outcome. This case proves the need for that.

And [I say the time has come to say that the creation of tax risk with the intent to avoid a tax charge should become a crime.](#)

It's time to get real on this issue.