

## Praise for HMRC where praise is due

Published: January 14, 2026, 10:54 am

---

I realise I have not offered praise for HMRC where it is due: that is remiss of me. Let me make amends.

I refer to a matter reported [in the FT today](#):

*Proposals to tighten the screws on users of tax avoidance schemes in next week's Budget have sparked protests from wealthy investors and their advisers who say the measures would be retrospective and "completely contrary to natural justice".*

*Thousands of financiers, celebrities, entrepreneurs, and other wealthy users of tax avoidance schemes will potentially be hit by proposals to clear a backlog of 65,000 cases by making them pay disputed bills upfront.*

I believe HMRC has this right. What, in essence, is being proposed is twofold. First of all, if (as in the case of Chris Moyles, for example) HMRC have won a case against sample users of a tax avoidance scheme (where he was one of three cases that were tested on a trial basis) but many more people partook of the scheme then the law is to be changed so that all of those who purchased the scheme will now have to pay their tax at the time that HMRC win the trial case rather than having to wait until individual cases are brought against each and every participant, where the outcome is almost bound to be the same as in the trial case. This, of course, makes complete sense and stops flagrant abuse by creating delay in paying tax.

Secondly, HMRC wants to extend this principle to apply to every case that has been notified under the DOTAS (Disclosure Of Tax Avoidance Schemes) rules since 2004, when they were introduced. It is thought there may be 67,000 such cases outstanding at present where HMRC is having to work against a backlog of what is quite clearly blatant tax abuse in the vast majority of cases and is suffering considerable loss of tax, and a considerable work burden because of the efforts of tax avoiders to delay their cases being heard to prevent cash having to be settled. Under the new proposals from HMRC, which are likely to be included in the Budget, all those involved in these cases will now have to pay the tax that might be in dispute upfront.

I stress, no one is stopping these people pursuing their claim: if they are still sure they are due tax relief they are still at liberty to make that claim, go to a Tribunal, present their case and see what happens. But, without exception, the people involved in these arrangements knew that they were buying what might be fairly called "tax risk". For a better description of what tax risk is, [see this article on David Quentin's tax blog](#). I would summarise that risk as being the purchase of a tax scheme ( and that is a pretty broadly defined term) that creates uncertainty about the claimed sum of tax owing by the taxpayer. Since every taxpayer who has made disclosure of a DOTAS arrangement knows that they have partaken in such a scheme, it is hardly surprisingly that I can say that each and every one of them has put themselves in a position of tax risk, with the deliberate intention of denying money at least potentially due to HMRC, which many of them having done so over many years.

What HMRC is now intending to do is rebalance at risk: they are saying that it is now the right of any taxpayer to take tax risk in the claims that they wish to make, but not at cost to HMRC in the meantime. I applaud that: this is definitely the right direction of travel for such schemes.

I would, however, add that it should not be the case that this is true for every technical dispute that arises. There are clearly occasions when there is genuine uncertainty as to the law, and occasions when HMRC get the law wrong ( I have seen this in my own professional practice). In those situations it would be quite wrong to demand tax upfront, but the positions are clearly differentiated: in these cases there is no purchased tax avoidance scheme. The new arrangements should definitely be used against deliberate tax avoidance but there is no basis for saying that tax must be paid upfront before a tax dispute can be raised; that would be an affront to natural justice.