

The difference between tax planning and tax avoidance? ...

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I was asked yesterday by a pretty experienced tax journalist how I defined the difference between tax planning and tax avoidance.

"That", I said "is easy. It's getting legal opinion."

What did I mean? Simply that if you are tax planning then you either reduce your tax risk (which happens by getting things right, rather than taking the risk of getting them wrong) or at the very least you arrange your affairs in ways that you know will not create tax risk for you. There are obvious examples: paying money into a pension, for example does not create tax risk, and nor does putting money into an ISA within allowed limits.

Tax avoidance, on the other hand always, and without exception, increases your tax risk. That is because you are doing something about which there is uncertainty. in that case, many tax advisers would suggest that you got a tax barrister's opinion to confirm that your action was legal, as defence against any counterclaim from HMRC. Examples might be claiming allowance for expenses where it is not certain that these are due in law, or using an offshore structure when the motive could be questioned. In all such cases the taxpayer's risk is increased by undertaking the transaction. That is what tax avoidance involves.

NB: I'm grateful [to tax barrister David Quentin](#) for this incredibly powerful, and simple, insight into the difference between the two categories of behaviour.