

# Why is the tax profession so intent on making excuses f...

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I note that the UK's Chartered Institute of Taxation [have issued a press release](#) that says in response to yesterday's publication by the government of a new consultation on creating a criminal offence of failing to disclose offshore income on a tax return:

*Tax advisers have welcomed the Government's launch of a debate over penalties for offshore tax evasion but expressed concern over proposals for a new criminal offence for those who fail to declare taxable offshore income and gains, which would mean the authorities would no longer need to show the person had acted dishonestly or with criminal intent.*

I am bemused by this response. Firstly, this legislation is very obviously a response to the situation found in recent trials where failures to secure convictions resulted from claims of innocent error however improbable I suspect those might have seemed to those bringing the cases.

Second, the CIOT response ignores the fact that the existence of this law does not require prosecution, it only permits it. There is always discretion not to proceed, and it is widely used.

But most importantly, I frankly do not see how there is anything but intent to act dishonestly or criminally in most cases involving non-disclosure of offshore income that has been deliberately located in a place where, to date, in most places automatic information exchange to HMRC has not taken place, which fact will have been known to all account holders. There can be exceptions: mental ill health resulting in mistaken non-disclosure is one I can foresee. That is why discretion is needed. But what this law says is that the onus of proof is on the tax payer, as it should be, and failure to act properly is a criminal offence.

Just what is wrong with that? And why do the tax profession have a problem with it?