

The rights and wrongs on tax avoidance from HM Treasury..

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HMRC have just issued [a press release on tax avoidance](#). Let's offer praise where it is due, first of all. They are right to say these things about tax avoidance:

The 10 things a promoter won't always tell you:

- * Most schemes don't work. You may be told that avoidance is legal, but if the scheme doesn't work you'll have made an incorrect tax return which is not in accordance with the law. You are legally obliged to pay tax that is due and you may be charged penalties if you try to avoid it.*
- * It could cost you more than you bargained for. Avoidance schemes are complex. They can give rise to unintended additional tax consequences, and the fees you pay the promoter do not count as tax paid. So you could end up paying much more than just the tax you're trying to avoid.*
- * You may have significant legal fees to pay. If the scheme is taken to litigation, you're likely to have hefty legal fees to pay. Your promoter may ask you to pay into a 'fighting fund' up front.*
- * You could face criminal conviction. If you deliberately mislead or conceal information from HMRC you could be prosecuted and convicted.*
- * You could face publicity as a tax avoider. If you are named in court papers when the case is litigated, or in public registers, you could be reported in the media as a tax dodger.*
- * Your scheme is never HMRC approved. Getting an avoidance Scheme Reference Number from HMRC doesn't mean the department has cleared the scheme. HMRC issues these numbers when a scheme has signs of being designed to avoid tax.*
- * You could be marked out as a high-risk taxpayer. Use of a scheme could mark you out as a high-risk taxpayer, which means that all of your tax affairs will be closely scrutinised in future, not just your claim for relief.*
- * HMRC is likely to beat your scheme in court. HMRC wins eight out of ten cases where*

taxpayers and promoters take avoidance schemes to court.

** The risk is normally all your own. It's unlikely that a promoter will give you a guarantee that a scheme will work. And they probably won't be around to support you once HMRC starts investigating your tax affairs. Some promoters set up simply to sell the scheme, and then disband.*

** You'll have to pay the tax up front anyway. You won't get a cash-flow advantage while HMRC investigates a scheme. New legislation means you'll have to pay the disputed tax up front.*

I buy all of them. I do not buy this:

The government has taken unprecedented steps to clamp down on the selfish minority who practise tax avoidance, because we are firmly on the side of the vast majority of taxpayers who play by the rules. As a result, tax avoidance is now very high risk.

This is true, to a degree, with regard to high risk domestic tax avoidance schemes, but this is a government that has massively increased the scope for tax avoidance for major companies by creating a territorial tax system, removing most of the controlled foreign company rules meaning tax haven usage is much more advantageous now, creating the patent box that the EU thinks abusive, creating arrangements that offshore finance operations in tax havens owned by UK based multinationals and more.

This government's record on tax avoidance is poor, at best, and consistent with being a 'high risk promoter' in many cases. They have nothing whatsoever to shout about when it comes to their own record.