Funding the Future

Ramsay rules, so tax avoiders should stop playing silly...

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I remember Dave Hartnett once saying to me that he would love to legislate the Ramsay principle but did not think it possible. That drove my desire for a general anti-avoidance principle that helped lead in due course to the general anti-abuse rule. Yesterday, however, the Ramsay principle - that says that where a transaction has pre-arranged artificial steps that serve no commercial purpose other than to save tax then the proper approach is to tax the effect of the transaction as a whole - had its day, again.

In cases brought by HMRC against UBS and Deutsche Bank HMRC argued that supposed restrictions placed on shares used to pay bonuses to senior bankers, which restrictions would, it was hoped, move them out of tax, were artificial steps added into the transactions to save tax and so the payments of the bonuses should be taxed as if the restrictions did not exist. As the press release on the case from the Supreme Court said:

In the UBS case, Lord Reed finds that the condition was completely arbitrary, and had no business or commercial rationale.

The condition in the DB case operated only for a very short period, during which the possibility that it might be triggered lay largely within the control of the employee who would be adversely affected. It had no business or commercial purpose.

I stress, these are old cases from the era when tax avoidance remained more blatant than at present, but the fact that US and Deutsche brought the case was surprising. As I told the Mail:

'It's amazing that UBS and Deutsche bought this case against HMRC when it was obvious to everybody these schemes were completely artificial and purely designed to avoid tax.'

It was, I think, inevitable that HMRC would win these cases.

It was good to see Ramsay still has life in it.

And most of all I hope the message is clear to tax avoiders that they really must stop playing very silly games.