

The 7 leading UK professional bodies involved in taxation issued guidance on 4th January 2011 titled “**Professional Conduct in relation to Taxation**”. The guidance includes a section on Tax Avoidance, which starts “*Tax avoidance is legal and is to be distinguished from evasion, which is illegal. All taxpayers have the right to arrange their affairs under the law to minimise their liability to tax.*”

Clients need to be made aware of all the facts so that they can make informed decisions “*Members should ensure that clients are fully aware of the risks of undertaking transactions that HMRC may regard as ‘unacceptable’ and that such transactions may be subject to litigation or possible changes in law.*”

As everyone’s circumstances are different we cannot provide one script fits all and so have summarised below the main points to get across to your client.

- Advanced tax planning is sometimes referred to as Tax Avoidance. Tax Avoidance is not illegal.
- Despite what the Government may say there are numerous court cases confirming that Tax Avoidance is possible.
- HM Revenue & Customs (HMRC) do not like tax avoidance and may become aggressive.
- HMRC are using their website to publicise why they believe some tax planning does not work (referred to as “Spotlights”). Whilst it is good to be aware of HMRC’s views, whether the tax planning actually works or not is often tested in the courts.
- Some planning can take around 5 to 7 years before a successful outcome is realised.
- During any client meetings we would suggest that you go through our risk document for advanced tax strategies that is available on the AVN Tax website, which covers the following;
 - a. HMRC are likely to look at the strategy and its implementation very closely.
 - b. HMRC are likely to enquire into your tax return that covers the proposed planning.
 - c. HMRC may announce a change in the tax law at any point, which may be retrospective.
 - d. HMRC may disagree with the opinion provided by Tax Counsel on a strategy
 - e. Your client’s tax position depends upon their particular circumstances, and there is no guarantee that HMRC will agree that the tax relief proposed will be applicable in your circumstances.
 - f. The tax outcome will depend upon your client’s circumstances, which may not suit the planning.
 - g. If paperwork is incorrect or not timely then the planning may fail.