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Evidence submitted by Mr Stephen Howard (tav0009)

WRITTEN EVIDENCE SUBMITTED BY STEPHEN HOWARD

I must firstly apologise for the fact that this submission may not necessarily be relevant to your terms of reference, or provided in the correct format.

The following are my personal views, I do not speak on behalf of anybody else. Having spent almost 5 decades working as an accounts and tax return preparer in the accountancy profession, I have come across many instances of tax avoidance and evasion. I remember the avoidance schemes, such as those created and promoted by Roy Tucker and the Rossminster group, (including the infamous dawn raids by the Inland Revenue) and, which were ultimately defeated in the House of Lords with landmark judgements that supposedly put an end to artificial avoidance.

Those schemes could arguably be described as pure avoidance. They did not pretend to be anything other than avoidance. And, as a result of their defeat in the Courts, it seemed to me, that the avoidance industry had been delivered a fatal blow.

However, over the past decade or so, I have witnessed a growth in so called "tax mitigation schemes", which are being created and promoted on a seemingly industrial scale. In particular, I refer to the "disguised remuneration" schemes, or contractor schemes as they are sometimes described, usually incorporating the use of EBT's, EFRBS's and offshore companies based in "tax havens" (notably IoM). This is the type of scheme that I have come across most in recent years.

When HMRC discover such schemes, they seem to be content to attack them as avoidance and as a result collect tax, penalties and interest when they defeat such schemes before the Tribunals. Perhaps this approach by HMRC is their preferred option as it presumably raises more revenue than criminal prosecution? These schemes are, in my opinion, evasion masquerading as legal avoidance. Also, and quite alarmingly, is the fact that the scheme of which I have particular knowledge may be largely undetectable by HMRC, as disclosure does not appear to be required under the DOTAS regime. However, I am also aware that HMRC are currently investigating certain users of this this particular scheme, presumably as a result of either a review of the detailed accounts filed with HMRC and/or "tip-offs". I believe that these schemes could and should be prosecuted as criminal evasion (cheating the public purse, perhaps ?). It is my contention that these wholly artificial schemes display many of the hallmarks of dishonesty – illusion, pretence, make believe, deliberate misrepresentation and deceit. The documentation that the promoters create as evidence of its existence and legitimacy is almost a work of fiction, bearing little or no resemblance to the actual facts. I believe that a successful and well publicised prosecution of a scheme user, with maximum custodial sentences, would surely kill off the tax avoidance industry for good, especially if the creators/promoters of the scheme were also charged with aiding and abetting the evasion.

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