



Golden Bullet, Silver Screen?

By Miranda Marshall – Director at Hayes + Storr

In a discussion document entitled Strengthening Tax Avoidance Sanctions and Deterrents the government has provided more information following its announcement in the Budget that it would 'explore options to introduce downsides for those who enable tax avoidance'. Ministers are said to be frustrated that even when HM Revenue and Customs defeat schemes such as the vehicles designed to exploit tax reliefs for film-making, as are beloved by glamorous celebrities and successful people in all walks of life, the advisers to the schemes can still pocket their professional fees.

More than 1,600 people were named in the Liberty £1.2billion tax avoidance scheme, making it the largest avoidance scheme ever marketed. Investors included celebrities, top businessmen, criminals, doctors, lawyers and even a judge. It centred on a music industry investment scheme. Another company Ingenious marketed tax-efficient film industry investment schemes. Many celebrities with 'right on' credentials have been exposed, to the delight of the media.

But, have the General Anti-Avoidance Regulations now gone too far? The developments are disquieting. The bill raises the spectre of retrospective penalties against advice given in good faith.

The Financial Secretary to the Treasury has stated that those who provide the services that enable aggressive tax avoidance 'should bear real risks and costs for their choices'. The Financial Times commented that 'taking battle to the supply side of the tax avoidance industry is sensible'. Existing sanctions do nothing to deter the sale of 'off-the-shelf-schemes', as a barrister's opinion backing them has to-date been enough to validate them.

The proposals for how the new regime will work have prompted widespread unease in the financial professions. There has always been a fundamental principle that arranging ones affairs in such a way as to pay less tax is not illegal. This remains a cornerstone of tax planning, but this is slowly being chipped away. In the Government's desire to respond to public concern about massive tax evasion by the very wealthy, it is hoped that they do not prevent millions of people from accessing advice and taking steps to arrange their affairs tax-efficiently.

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