

THE CSI FILE - Tax Avoidance and Tax Evasion

Tax avoidance and tax evasion are two different things. The former is legal and the latter is illegal.

What is tax avoidance - is it the same as tax evasion?

Tax avoidance means the legal attempt of a taxpayer to minimise the payment of taxes for his/her own benefit. This is different from tax evasion, which implies an illegal attempt to avoid the tax burden.

"**Avoidance** of taxes is not a criminal offence. Any attempt to reduce, avoid, minimise, or alleviate taxes by legitimate means is permissible. The distinction between avoidance and evasion is fine, yet definite.

One who avoids tax does not conceal or misrepresent. He shapes events to reduce or eliminate tax liability and, upon the happening of the events, makes a complete disclosure.

Evasion, on the other hand, involves deceit, subterfuge, camouflage, concealment, some attempt to colour or obscure events, or makes things seem other than they are.

For example, the creation of a bona fide partnership to reduce the tax liability of a business by dividing the income among several individual partners is tax avoidance.

However, the facts of a particular case may show that an alleged partnership was not, in fact, established and that one or more of the alleged partners secretly returned his or her share of the profits to the real owner of the business - who, in turn, did not report this income. This would be an instance of attempted evasion."