



HM Revenue
& Customs

Mr Ralph Bolton

By email:

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Freedom of Information Team

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Our ref: FOI2020/00846

Dear Mr Bolton

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 10 May, for the following information:

"In the "Measuring tax gaps 2019 edition" document published by you (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/820979/Measuring_tax_gaps_2019_edition.pdf), in the "Measuring Tax Gap" part of the introduction, you state:

"The 'theoretical tax liability' represents the tax that would be paid if all individuals and companies complied with both the letter of the law and our interpretation of Parliament's intention in setting law (referred to as the spirit of the law)."

Under FOI, please can you detail what sources you use for the "interpretation of Parliament's intention" and "the spirit of the law". Please detail:

- What qualifications you collectively hold for interpretation of laws, of parliament's actions and intentions etc.
- What sources inside HMRC and government you use for information or guidance in this area, and what qualifications they have
- What external sources you consult, and what qualifications they have
- Any other pertinent information that would help me understand how you perform this part of your work

If, in the course of compiling your response, getting exact qualifications is difficult or time consuming, then please feel free to list reputations, credentials or else name the individual or organisation involved such that I may be able to do that research myself. If this request would go over the time allowed, then please return an incomplete response with whatever you can achieve in the time."

In terms of qualifications of staff working with policy teams, we can confirm we hold the information you seek. However, providing it would exceed the FOIA cost limit, which for central government equates to one person spending 3½ working days locating and extracting all of the information requested. We have therefore refused your request under [section 12\(1\)](#) of the FOIA.

You may want to reconsider your request by taking into account the information in this letter. To assist you further, the following advice may be helpful. Narrowing the scope of your question to the general training or guidance provided to staff, rather than the qualifications of individuals, as well as narrowing the topic to specific areas of tax law and related external consultation for advice on specific issues may enable us to respond within the cost limit.

Although we cannot answer your FOIA request, some information can be provided on a discretionary basis.

We have interpreted your question as relating to tax avoidance specifically. The definition of avoidance and an explanation of the methodology used to calculate this tax gap are provided in [Measuring Tax Gaps: 2019 edition](#) and accompanying [Methodological Annex](#) (see sections L5 to L16).

As described in these documents, avoidance is exploiting the tax rules to gain a tax advantage that Parliament never intended. It often involves contrived, artificial transactions that serve little or no commercial purpose other than to produce a tax advantage. It involves operating within the letter but not the spirit of the law.

Where we have concerns whether a particular transaction or arrangement amounts to tax avoidance, we will challenge such transaction or arrangement. In doing so, we will consider the specific facts of the transaction or arrangement and how the tax law should be applied to its unique facts, consulting relevant policy, technical and legal experts.

Our firm view is that tax avoidance schemes do not work. We have consistently challenged their use, including through the courts, on the basis that they either don't work or do not achieve their intended tax results. This view has been supported by a number of court successes; the courts provide the channel for challenging our decisions.

The paper [Tackling tax avoidance, evasion and other forms of non-compliance](#) details the Government's approach in tackling avoidance.

Our [Litigation and Settlement Strategy](#) is the framework within which we resolve tax disputes through civil law processes and procedures in accordance with the law. It applies irrespective of whether the dispute is resolved by agreement with the customer or through litigation.

Our [Code of Governance](#) for resolving tax disputes sets out the governance and assurance frameworks for decisions in tax disputes.

Further information about how we resolve tax disputes is available in the Tax Assurance Commissioner's annual report, which is now part of our [Annual Report and Accounts](#) publication.

If you are not satisfied with this reply you may request a review within two months by emailing foi.review@hmrc.gov.uk, or by writing to the address at the top right-hand side of this letter.

If you are not content with the outcome of an internal review you can [complain to the Information Commissioner's Office](#).

Yours sincerely,

HM Revenue and Customs