



HM Revenue
& Customs

Stephen Smith

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Dear Stephen Smith

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 16 October, for the following information:

“Example answer

HMRC ARE AWARE OF <number of schemes in total> split DOTAS & NON_DOTAS

1a) Legal under UK LAW (i.e not illegal) <number legal> ... again split dots and non dotas

1b) Illegal under UK LAW

<number illegal> ... again split dots and non dotas

1c) Are still legal under UK LAW as of the date of this request <number still legal> ... again split dots and non dotas

1d) Have since been made illegal under UK LAW as of <given date> <Number Made illegal and date> ... again split dots and non dotas”

In line with your previous FOI request, we have assumed you are seeking information about disguised remuneration (DR) schemes. If this is not the case please let us know.

HMRC is aware of over 250 DR schemes, around 50% of these schemes are disclosed under the Disclosure of Tax Avoidance Schemes (DOTAS) regime.

With regards to the legality of these schemes, as previously advised, tax avoidance involves operating within the letter, but not the spirit, of the law. Schemes involve bending the rules of the tax system to gain a tax advantage that Parliament never intended.

These schemes often involve artificial or contrived arrangements. A disguised remuneration scheme that pays loans in place of ordinary remuneration (often via an offshore entity) is an example of tax avoidance.

It is HMRC's view that the law did not allow the tax consequences disguised remuneration schemes claimed to achieve. Where a scheme doesn't work, the tax legally due should be paid.

HMRC has always maintained that avoidance schemes do not work and has consistently challenged their use. HMRC will challenge avoidance schemes on the basis that they either don't work or do not achieve their intended tax results. Where the courts agree with us they do not declare the scheme illegal simply that it does not achieve the intended tax results.

Further information about terminology is available on GOV.UK at:
<https://www.gov.uk/government/publications/tackling-tax-evasion-and-avoidance> (page 5 - box 1.A: Clarifying tax terminology).

Outside of the FOIA

DOTAS was introduced by the Finance Act 2004. Under the DOTAS rules, the promoter of a tax scheme has to notify HMRC where a scheme contains various hallmarks of tax avoidance. If a scheme has been notified under DOTAS rules it does not in any way signify that it has been approved by HMRC. Quite the contrary – it is intended to put people on notice that a scheme may well be challenged by HMRC.

Further information about DOTAS is available on GOV.UK at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/701190/DOTAS-March.pdf

If you are not satisfied with this reply you may request a review within two months by emailing foi.review@hmrc.gsi.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 make a complaint to the Information Commissioner's Office (ICO). Instructions about this process are available at the following link: <https://ico.org.uk/concerns/>

Yours sincerely,

Freedom of Information Team