

# Tax Evasion & Tax Avoidance

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- Any one may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the treasury; there is not even a patriotic duty to increase one's taxes.  
— Learned Hand
- A taxpayer may engineer his transactions to minimize taxes, but he cannot make a transaction appear to be what it is not  
- Irving Loeb Goldberg
- There's no line on the tax return that asks, "What are you not telling us?"  
— Robert Goulder



- Tax mitigation and tax planning are synonyms for tax avoidance.

**“If you get away with it, it was tax avoidance. If not, it was tax evasion.”**

# The concept of Tax



- Most developed countries are characterized by a broad base for direct and indirect taxes with tax liability covering the vast majority of citizens and firms. Developing countries, in contrast, are confronted with social, political and administrative difficulties in establishing a sound public finance system. As a consequence, developing and emerging countries are particularly vulnerable to tax evasion and avoidance activities of individual taxpayers and corporations. This can be considered one of the primary reasons for large differences in the ability to mobilize own resources between developed and developing countries.

# Evolution of Tax Evasion and Avoidance



- Tax evasion and avoidance are both phenomena that are probably as old as taxation itself. Wherever and whenever authorities decide to levy taxes, individuals and firms try to avoid paying them. Though this problem has always been present, it becomes more pressing in the course of globalization as this process extends the range of opportunities to circumvent taxation while simultaneously reducing the risk of being detected.



- The subject of tax evasion and avoidance embraces many dimensions and problems. As there exists no clear-cut distinction between tax evasion and tax avoidance, one firstly needs to define which practices can be considered as violation or abuse of tax codes. To create a level playing field when discussing these issues, the following terms and definitions are helpful. Tax evasion in general refers to illegal practices to escape from taxation. To this end, taxable income, profits liable to tax or other taxable activities are concealed, the amount and/or the source of income are misrepresented, or tax reducing factors such as deductions, exemptions or credits are deliberately overstated.



- Tax evasion can occur as an isolated incident within activities that are – in other aspects – legal. Or tax evasion occurs in the informal economy where the whole activity takes place in an informal manner – this means the business is not only evading tax payments but is also not registered as formal enterprise at all.



- Tax avoidance, in contrast, takes place within the legal context of the tax system that is individuals or firms take advantage of the tax code and exploit “loopholes”, i.e. engage in activities that are legal but run counter to the purpose of the tax law. Usually, tax avoidance encompasses special activities with the sole purpose to reduce tax liabilities. An example for tax avoidance is strategic tax planning where financial affairs are arranged such in order to minimize tax liabilities by e.g. using tax deductions and taking advantage of tax credits.



# Facilitating factors for tax avoidance and tax evasion



**low tax morale**

**high compliance costs**

**tax avoidance  
and tax evasion**

**insufficiencies in tax collection**

**weak capacity in detecting  
and prosecuting tax violators**

# Reasons for Tax Evasion and Avoidance



- **Low tax morale**
- **Low quality of the service in return for taxes**
- **Tax system and perception of fairness**
- **Low transparency and accountability of public institutions**
- **High level of corruption**
- **Lack of rule of law and weak fiscal jurisdiction**
- **High compliance costs**
- **Insufficiencies in tax collection**
- **Weak capacity in detecting and prosecuting inappropriate tax practices**

# Modes of tax evasion and avoidance



**Intentional falsification  
of tax relevant information**

## **Tax Evasion**

- Non-declaration of financial assets in offshore financial accounts
- Trade Mispricing
- VAT fraud
- Missing trader fraud / carousel fraud
- Misclassification of goods
- Smuggling of goods
- Bribing tax officials
- Abuse of tax incentives by falsely claiming eligibility

**Exploiting the legal scope for  
discretion of the tax system running  
counter to the purpose of the tax law**

## **Tax avoidance**

- Profit Shifting
- Pricing of intercompany tangible goods transactions/ barter trade
- Increase in intercompany debt
- Location of central services and intangible assets
- Bargaining for tax incentives

# Recommendation for fighting the problem of Tax Evasion



- Reduction in present tax rates.
- Minimization of controls and licences in the economy.
- Regulation of donation to political parties.
- Too be liberal in small cases
- Minimum penalty for concealment of small income.
- Arise public conciseness.
- Departmental Re orientation
- People education for Tax
- Convincing the people about use of tax amount.
- No recognition for concealment of income.
- Name of tax evaders shall be publicly disclosed.
- Special drive for public awareness.

# Mc Dowell & Co. Ltd. V/s Commercial Tax Officers



- Justice Chinappa Reddy
- The consequences of Tax Evasion.
  - 1) There is substantial loss to the economy.
  - 2) Disturbance to economy.
  - 3) Large hidden loss to the economy.
  - 4) Development of sense of injustice in public welfare.
  - 5) Transferring the tax burdens.

# Method of identifying Tax Evasion



- **Prof. Kaldar Committee**

- Lower Tax rates
- Compulsory auditing
- Allotment of codes to assesses.
- Comprehensive report system.
- Improvement in administrative efficiency.

- **Mahavir Tyagi Committee.**

- Right to call Information of assess to public.
- Annual publication of list of payers.