Press release: Getting to the root of tax avoidance

The victory over scheme promoter, Root2, came after they failed to report a mass-marketed tax avoidance scheme, known as Alchemy, to the tax authority.

The scheme aimed to extract profits from owner-managed companies in the form of winnings from betting on the stock market, which the scheme aimed to ensure would be tax free, rather than in the form of taxable employment income.

HMRC brought the case against Root2 under the Disclosure of Tax Avoidance Scheme (DOTAS) rules, which requires promoters to tell HMRC about tax avoidance schemes they design and sell.

The First-tier Tribunal agreed with HMRC that the promoter did not abide by the DOTAS rules.

Penny Ciniewicz, Director General of HMRC’s Customer Compliance Group, said:

> This is a great victory that sends a clear message to tax avoidance scheme promoters that we will pursue you if you don’t play by the rules.
>
> Most tax avoidance schemes don’t work. The DOTAS rules ensure that HMRC is notified of schemes so that we can investigate and challenge them.
>
> Designers and promoters of avoidance schemes should come forward now if they haven’t already disclosed a scheme to us. We will take action and nobody should think they can get away with not disclosing their avoidance schemes and misleading users about the need to report them.

HMRC will seek to impose a substantial penalty on the promoter for failure to disclose the scheme.

- There is no right of appeal against the Tribunal decision.
- HMRC does not approve tax avoidance schemes. Under DOTAS, promoters must notify HMRC of schemes that contain various hallmarks of tax avoidance. If a scheme has been notified under DOTAS, it does not in any way signify that it has been approved by HMRC.
- HMRC regularly investigates tax avoidance schemes and where it finds rules have been broken, will always take action.
- DOTAS was introduced in 2004 and has been strengthened and broadened since its introduction to keep pace with the ever-changing avoidance landscape.
- DOTAS covers tax avoidance involving: Income Tax, Capital Gains Tax,

Corporation Tax, National Insurance contributions, Stamp Duty Land Tax, Inheritance Tax and the Annual Tax on Enveloped Dwellings.
- DOTAS relies on 'hallmarks' to describe what has to be disclosed, not on whether something fits a description of 'avoidance'. HMRC keeps these 'hallmarks' under review and has updated and strengthened them regularly since DOTAS was introduced.
- DOTAS is a self-assessment regime – the promoter must consider the scheme it is developing and disclose it to HMRC if it meets any of the hallmarks.
- How DOTAS works:
    - Promoter discloses scheme to HMRC
    - A Scheme Reference Number (SRN) is issued by HMRC which the promoter must provide to users.
    - Promoters must report details of their users to HMRC on quarterly client lists.
    - Users must report their use of a scheme to HMRC annually.
    - HMRC have various information powers to tackle non-compliance with the regime and promoters face penalties of up to £1m or more if they fail to disclose a scheme.
    - Disclosure under DOTAS is one of the three triggers to enable HMRC to issue a notice to a taxpayer under the 2014 Accelerated Payments regime.
- DOTAS guidance can be found here
- Audio version of statement can be found here
- A picture of Penny Ciniewicz can be found here

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