

Is tax evasion Halal or Haram?

Are your
tax affairs
100%
honest?



Or do they
involve
lying or
cheating?



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Introduction

Tax evasion has a significant impact on the economy and has greatly contributed towards the £35bn UK tax gap between what should be collected in tax and what is actually paid for¹. As a result HMRC is stepping up its campaign against this criminal activity; prosecutions rose by 29 percent from 2012/13 to 2013/14 and again is aiming to rise by 50 percent next year 2014/2015.

Against this backdrop, the question of whether tax evasion is halal or haram is a sensitive issue and greatly impacts a person's religious life. We discuss some of the key issues using our expertise as a firm of chartered accountants, however, as mentioned in the disclaimer, readers should seek the advice of a suitably qualified imam or scholar before deciding whether tax evasion is halal or haram.

The key issues appear to be that tax evasion may be haram if:

- 1) a person should obey the laws of the land? (Section 1)
- 2) tax evasion may involve lying or fraud? (Section 2)
- 3) unpaid tax could create a debt? (Section 3)

Key Definitions

There are two ways of reducing tax liabilities; tax evasion and tax avoidance, the former being illegal while the latter being legal.

Tax evasion is usually an under or non-payment of taxes through fraudulent or illegal means e.g. a deliberate under-statement of taxable income.

Tax avoidance generally uses legal methods of tax planning and structures to decrease the amount of tax payable. Highly aggressive tax avoidance schemes, however, may still be challenged by the tax authorities.

This paper deals with tax evasion.

HMRC: Her Majesty's Revenue & Customs is the UK tax authority.

Section 1: A person should obey the laws of the land?

The fact that tax evasion is illegal could also make it haram if, when a person becomes a citizen of any country, he or she is bound by the laws of that country.

For example, In the British Nationality Act 1981; schedule 5, it requires the person applying for citizenship to pledge:

"I will give my loyalty to the United Kingdom and respect its rights and freedoms. I will uphold its democratic values. I will observe its laws faithfully and fulfil my duties and obligations as a British citizen."

Some may argue that because they were born in the UK they automatically become a citizen and therefore did not make that pledge, however being a citizen of a country vests them with certain rights and in return the citizen is expected to obey the law; in other words it could be called a contract.

Others may argue that government taxes are unfair, excessive or are used to wage war against Muslims, but scholars may reply that a person could avoid paying taxes but only through legal means and that Muslims must also not participate in any action in which it harms Islam's reputation. However, Muslims could also consider moving away from that country or paying the tax anyway because they are still in a contract to which you have agreed.

We note that Mufti Mohammed Zubair Butt of Al-Qalam's Shari'ah Panel mentions²:

"When living as a minority in a non-Muslim majority country, such as the UK, there are two basic opinions amongst those scholars who allow the imposition of tax to meet genuine need:

- 1) As a citizen/resident of this country one has a covenant with the state to pay all taxes as are imposed by the state. Therefore, one should honour the covenant and pay any tax in full irrespective as to how the tax revenues are employed.*
- 2) The rate of tax imposed by the state is excessive or/and is imposed to meet avenues of expenditure that do not pass the test of legitimate need. Therefore, although some level of tax is payable, the full tax figure being demanded is not payable. Essentially, the excess being demanded is a form of oppression and one has the right to protect one's property from oppression. How much is then payable is a grey area.*

The safer option, in my view, is to utilise existing tax planning structures to minimise the payment of what is deemed as the excess."

Mufti Ebrahim Desai also mentions³:

"When a Muslim acquires citizenship in a country, he agrees to abide by the laws of that country. A Muslim is bound to honour his agreements which include the laws of taxation. Muslims living in democratic dispensations like Canada where Muslims are given the freedom to act upon their religion should act in a responsible manner. In the likelihood of any obstacle of freely practising Islam or legislation infringing on the rights of a Muslim, there are legislations in place to address such concerns. Such avenues should be diligently explored and used. It is highly irresponsible of a person acquiring citizenship and then to act against the laws of taxation after qualifying for citizenship. If one did not agree to the various laws of taxation, then one should have not acquired citizenship in the first place. "

Section 2: Tax evasion may involve lying or acts of fraud?

One of the problems with tax evasion is that it will involve filing tax returns which include lies, deceit or omit the truth.

In addition, a false declaration would have to be made, as illustrated by the wording of some of the declarations signed by company directors or individuals in their tax returns filed with HMRC (the UK tax authorities):

Corporation tax return (company)

“Warning: Giving false information in the return, or concealing any part of the company's profits or tax payable, can lead to both the company and yourself being prosecuted.

Declaration: The information I have given in this company tax return is correct and complete to the best of my knowledge and belief.”

Self assessment return (individual)

“I declare that the information I have given on this tax return and any supplementary pages is correct and complete to the best of my knowledge and belief. I understand that I may have to pay financial penalties and face prosecution if I give false information.”

Islam on lying

If an act of tax evasion, or a false declaration on the tax return itself, involves lying, cheating or committing acts of fraud, then do these acts comply within the letter or the spirit of Islamic laws?

Mufti Mohammed Zubair Butt⁴ mentions that people may use tax planning as long they do not lie or are fraudulent.

We also note that there are some Islamic sources which may imply that Muslims should avoid being dishonest (but please verify these with a scholar/imam as we are not experts on their context/translation/reliability etc.):

- a) Confound not truth with falsehood, nor knowingly conceal the truth. (Quran 2:42)

وَلَا تَلْبِسُوا الْحَقَّ بِالْبَاطِلِ وَتَكْفُرُوا بِالْحَقِّ وَأَنْتُمْ تَعْلَمُونَ ﴿٤٢﴾

- b) In their hearts is a disease, and Allah increaseth their disease. A painful doom is theirs because they lie. (Quran 2:10)

فِي قُلُوبِهِمْ مَرَضٌ فَزَادَهُمُ اللَّهُ مَرَضًا وَلَهُمْ عَذَابٌ أَلِيمٌ بِمَا كَانُوا يَكْذِبُونَ ﴿١٠﴾

- c) Abdullah reported Allah's Messenger (may peace be upon him) as saying: Truth leads one to Paradise and virtue leads one to Paradise and the person tells the truth until he is recorded as truthful, and lie leads to obscenity and obscenity leads to Hell, and the person tells a lie until he is recorded as a liar. (Sahih Muslim – Book 32 Hadith 6307)

Examples of tax evasion which may involve dishonesty or fraud

We have also included some basic examples of tax evasion in the table below to illustrate how they may involve acts of dishonesty or fraud and could therefore be haram:

Understate income	Deliberately conceal income: <ul style="list-style-type: none">- Cash sales excluded from profit & loss- Overseas income/profits not declared (e.g. certain offshore vehicles may still be subject to taxes, rental profits or sale of foreign property)- Bank receipts treated as loans received- Income is incorrectly deferred to a future period- Business is artificially split to stay below VAT threshold
Overstate expenses	Deliberately invent expenditure or claim for expenses which are ineligible for tax deductions: <ul style="list-style-type: none">- Create fictitious invoices for business expenses or claim expenses for services which were never obtained or incurred- Claim expenses for personal or non-business use- Pay wages to a family member or friend who hasn't worked for the business
Circular transactions with no commercial purpose	<ul style="list-style-type: none">- Receive cash from an accomplice and pay them back through the business and show this as an expense
Deliberate non-payment of tax	<ul style="list-style-type: none">- A company is created and generates a profit, but doesn't pay its VAT, PAYE or corporation tax liabilities. The company is then closed down without settling its liabilities.- Goods are imported VAT-free and sold with VAT, but the VAT is not paid and is pocketed by the business which disappears (this could also involve a chain of businesses in a carousel)

Section 3: Unpaid tax could create a debt?

If a person evades tax then according to the law of the land they are likely to owe a debt to the state. For example, HMRC can investigate previous tax returns and go back many years if they find evidence of tax evasion. They can then add fines, penalties and interest and an individual could have a very big tax bill to pay. We have also heard of instances where people have had to sell their houses in order to repay back taxes.

A person could potentially evade taxes without getting caught by HMRC, however, how would that person be treated on the Day of Judgement if they were to die with their unpaid tax still outstanding, and could it be regarded as a debt?

We note that the issue of unpaid debt is a serious one and Shaykh Muhammad Saalih al-Munajjid has mentioned the following:

“Islam takes the matter of debt very seriously and warns against it and urges the Muslim to avoid it as much as possible.

It was narrated from ‘Aa’ishah (may Allaah be pleased with her) that the Prophet (peace and blessings of Allaah be upon him) used to say in his prayer: “Allaahumma inni a’oodhi bika min al-ma’tham wa’l-maghram (O Allaah, I seek refuge with You from sin and heavy debt).” Someone said to him: “How often you seek refuge from heavy debt!” He said: “When a man gets into debt, he speak and tells lies, and he makes a promise and breaks it.” Narrated by al-Bukhaari (832) and Muslim (589).

And he also mentioned:

It was narrated from Thawbaan (may Allaah be pleased with him) that the Messenger of Allaah (peace and blessings of Allaah be upon him) said:

“Whoever dies free from three things – arrogance, cheating and debt – will enter Paradise.”

Narrated by al-Tirmidhi (1572); classed as saheeh by al-Albaani in Saheeh al-Tirmidhi.

References

- 1) "UK tax evasion prosecutions up by a third" Financial Times, 13/10/2014
- 2) "Can I be held liable for the tax evasion of my employers?" Mufti Mohammed Zubair Butt, Al-Qalam Sharī'ah Panel, 23/01/2014
- 3) Fatwa#: 27651 Mufti Ebrahim Desai, 18/12/2013
- 4) "Can I reduce my tax liabilities through lying, as Islamically we are entitled to whatever we earn?" Mufti Mohammed Zubair Butt, Al-Qalam Sharī'ah Panel, 22/03/2012