



**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

Nalina Arora
HM Revenue & Customs
Room 3/41
100 Parliament Street
London
SW1A 2BQ

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**STRENGTHENING TAX AVOIDANCE SANCTIONS AND DETERRENTS: A
CONSULTATION RESPONSE**

The Bar Standards Board (BSB) is the independent regulator of barristers in England and Wales. We regulate the profession in the public interest.

The law in relation to tax avoidance and associated penalties is a matter for the Government and Parliament, and where Parliament has enacted laws barristers are expected to comply with those laws as part of their professional regulatory obligations. In that context, we offer no view on penalties other than that they should be proportionate. Our only substantive comments in relation to the consultation relate to the role of legal advice in any regime to control tax avoidance.

All barristers are required to act with honesty and integrity and behave in a way which maintains public trust and confidence in the profession. Those who act dishonestly or who knowingly mislead clients on tax matters may be subject to regulatory sanctions if the behaviour is reported to the regulator. In the most serious of cases this may include being disbarred by the BSB. Barristers, however, have a duty to maintain their independence, to act honestly and to act in the best interests of their clients. We would, therefore, oppose any actions which prevented clients from benefiting from independent advice on the application of tax law – or which deterred clients from seeking such advice. This would clearly not be in the public interest and would be a breach of our regulatory objectives.

Whilst it is a legitimate policy objective of Government to seek to minimise tax avoidance, the fact that an opinion on the legality of a scheme is subsequently defeated in the courts does not necessarily mean that a barrister has acted inappropriately and should face sanctions. In the context of legislation on tax avoidance, it is important that there are appropriate exclusions for

independent legal advice on tax matters. Any grey area on this point is likely to affect the legal rights of those affected by the legislation.

More information on our Code of Conduct can be found at www.barstandardsboard.org.uk

I would be happy to meet to discuss further if this would be helpful.

Yours sincerely

Ewen MacLeod
Director of Strategy and Policy