



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

**Peer - Reviewed & Refereed Journal**

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **TAX EVASION VS. TAX AVOIDANCE: LEGAL AND ETHICAL CONSIDERATIONS**

AUTHORED BY - SHIVANI DIKSHIT

## **Overview**

Taxes are essential for funding public services like education, healthcare, and infrastructure. However, many individuals and companies try to lower their tax payments using different strategies. Some methods are legal and ethical (tax avoidance), while others are illegal and punishable by law (tax evasion). This paper explains the difference between the two, their legal consequences, and the ethical debates surrounding them.

## **Introduction**

Everyone wants to pay less in taxes, but there is a fine line between legally reducing tax payments and breaking the law. Tax avoidance means using legal methods, such as tax deductions or exemptions, to lower tax bills. Tax evasion, on the other hand, involves illegal activities like hiding income or lying on tax returns. While tax avoidance follows the law, it sometimes raises ethical concerns. This paper explores the legal and moral aspects of tax planning.

## **Understanding Tax Evasion and Tax Avoidance**

- 1. What is Tax Evasion?** Tax evasion is an illegal practice where individuals or businesses deliberately misreport income, exaggerate expenses, or use secret offshore accounts to avoid paying taxes. Examples include:
  - Not reporting all sources of income
  - Claiming false deductions
  - Hiding money in foreign bank accountsSince tax evasion is a crime, those caught can face heavy fines or even jail time.
- 2. What is Tax Avoidance?** Tax avoidance is legally reducing tax payments by following the rules set by the government. Common legal strategies include:
  - Investing in tax-free bonds
  - Taking advantage of tax deductions and credits



- Structuring businesses to minimize tax liability While tax avoidance is legal, some people question whether it is fair when wealthy individuals and corporations use loopholes to pay less tax.

## Legal Aspects

The difference between tax evasion and tax avoidance depends on the law. Governments create tax codes to ensure fairness, but some businesses and individuals find ways to work around them.

1. **International Tax Regulations** Countries are working together to stop tax evasion. Organizations like the **Organisation for Economic Co-operation and Development (OECD)** introduced laws to prevent big companies from avoiding taxes by shifting profits to low-tax countries. The **Foreign Account Tax Compliance Act (FATCA)** in the U.S. requires banks worldwide to report American account holders, making it harder to hide money offshore.
2. **Court Decisions** Courts worldwide have ruled on tax disputes. In the 1936 case of **Inland Revenue Commissioners v. Duke of Westminster**, the court allowed tax planning as long as it followed the law. However, modern courts now focus on whether transactions have a real purpose or are just schemes to avoid taxes.

## Ethical Issues

1. **Is It Right to Avoid Taxes?** Even if tax avoidance is legal, is it fair? Some argue that the wealthy and large corporations should pay their fair share instead of using loopholes to lower their tax bills. Others believe that taxpayers have the right to use legal methods to minimize taxes.
2. **Businesses and Tax Responsibility** Many corporations benefit from public services such as roads, security, and education but still try to minimize their taxes. Some companies now promote ethical tax practices as part of their corporate social responsibility (CSR), ensuring they contribute fairly to society.
3. **How It Affects Society** Aggressive tax avoidance can widen the gap between the rich and poor. When wealthy individuals and companies pay less tax, governments may raise taxes on middle- and lower-income citizens, increasing inequality and public distrust in the tax system.



### Real-Life Examples

1. **Apple's Tax Controversy** In 2016, the European Commission ruled that Apple unfairly benefited from special tax deals in Ireland, paying a corporate tax rate of less than 1%. While Apple's actions were legal, they were criticized as unethical, leading to calls for stricter tax regulations.
2. **The Panama Papers Leak** In 2016, leaked documents revealed how wealthy individuals and companies hid money in offshore tax havens to avoid taxes. Unlike tax avoidance, these actions involved fraud and deception, sparking global efforts to improve financial transparency.

### Ways to Improve the Tax System

1. **Closing Loopholes** Governments should review and update tax laws to prevent companies and individuals from exploiting legal gaps.
2. **Global Cooperation** International efforts, such as the OECD's tax agreements, can help reduce cross-border tax evasion by enforcing strict reporting rules.
3. **Greater Transparency** Stricter financial reporting rules and public disclosure of corporate tax payments can help prevent tax abuse.
4. **Promoting Fair Tax Practices** Governments can reward businesses that follow ethical tax practices and encourage responsible corporate behavior.

### Conclusion

While tax evasion is illegal, tax avoidance remains a controversial topic. Although it is within the law, some tax avoidance strategies raise ethical concerns about fairness and social responsibility. Governments, businesses, and individuals must work together to create a fair tax system that ensures everyone contributes their fair share while preventing abuse of tax laws.