Tax evasions

Tax evasion is the use of illegal methods of concealing income or information from the IRS (Indian Revenue service) or other tax authority. Tax evasion can result in fines, penalties and/or prison time.

Tax evasion can be **defined** as any criminal activity or any offence of dishonesty punishable by civil penalties that is intended to reduce the taxation incidence, and depends on economic and **tax** structures, types of income, and social attitudes.

Tax avoidance is the use of legal methods of reducing taxable income or tax owed. Claiming allowed tax deductions and tax credits are common tactics, as is investing in tax-advantaged accounts such as IRAs and 401(k)s. IRAs is a retirement savings vehicle, a **401**(**k**) **is** a type of employer-sponsored plan with its own set of rules. A traditional **IRA is** an account that the owner establishes without the employer being involved.

The **difference between tax evasion and tax avoidance** largely boils down to two elements: lying and hiding.

"Tax avoidance is structuring your affairs so that you pay the least amount of tax due. Tax evasion is lying on your income tax form or any other form," says Beverly Hills, California-based tax attorney Mitch Miller.

INCOME SLAB AND TAX RATES FOR F.Y. 2020-21/A.Y 2021-22

Taxable income	Tax Rate
Up to Rs. 2,50,000	Nil
Rs. 2,50,001 to Rs. 5,00,000	5%
Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs. 10,00,000	**30%**

Examples of tax evasion

Tax evasion doesn't require elaborate schemes or dark-alley meetings. Here are a few examples of how it can happen more easily than you'd think.

1. Paying the nanny under the table

Paying someone who works for you in cash doesn't constitute tax evasion, Freyman says. What does, however, is a lack of communication with the IRS and payroll tax payments. You should report the wages you pay on Schedule H and give the worker a W-2 each year, he says. Not sure if that household helper counts as an employee? IRS Publication 926 will help you decide.

"Income is income," Freyman says.

2. Ignoring overseas income

This often affects people who work or own rental properties outside of the country.

“We've heard a lot of times: ‘But my property is not in the U.S. Why in the world should I report any income on it if it's a rental?’” he says. “That's one that always gets people. They think just because it's out of the country, they don't have to report it.”

3. Banking on bitcoin

Using bitcoin won’t get you through any secret loopholes. So-called cryptocurrencies are a new phenomenon, but the IRS already has rules about them: Their transactions are taxable. And sometimes taxpayers overlook cryptocurrency holdings that have increased in value.

They might get rid of it and not realize that that's still income.

4. Not reporting income from an all-cash business or illegal activities

Some of the most common tax evasion cases involve people running cash businesses who pocket money from the cash register without reporting the income.

“That's tax evasion,” he says. “That is very, very common — and the IRS knows that's very common.”

Tax evasion also happens when people don’t report income from illegal activities, such as drug dealing or prostitution. (Yes, you have to report that on your tax return.)

Examples of tax avoidance

When it comes to tax avoidance, there are plenty of ways to reduce your tax bill legally.

- Capitalize on tax-advantaged retirement accounts such as 401(k)s and individual retirement accounts are popular methods of tax avoidance.
- Learn more about the world of tax deductions and credits. You might qualify if you paid for tuition, day care, medical expenses or even sales taxes.
  Charitable donations may also help you.
- Your tax prep software or tax advisor can help you find legal options for tax avoidance.

Jail time and other penalties for tax evasion

An innocent mistake on your tax return doesn’t automatically turn you into a tax evader — intent is a factor.

But if you did intend to evade taxes, here’s a taste of the penalties you could face, according to the IRS:

- A felony on your record
- Five years in jail, and/or
- A fine of up to $250,000 ($500,000 for corporations)

- A bill for the cost of prosecuting you

Prison time is a real possibility for wilful tax evasion, but civil penalties may be more likely, according to Miller. Still, civil penalties add up — they can easily double the tax originally owed; he says. Some examples include:

- Failure-to-file penalties
- Underpayment penalties
- Accuracy-related penalties
- Interest on penalties owed

Another consequence of tax evasion is higher audit risk. Typically, only the last three years of your tax returns are eligible for audit. “If you omit 25% or more of your gross income [from a tax return], that extends the statute of limitations to six years,” Miller says.

Common Methods of Tax Evasion

There are two aspects of not paying taxes when they are due. The first is tax avoidance and the other tax evasion. The difference between the two is that tax avoidance is basically finding a loophole that exempts you from paying taxes and is not strictly illegal, while evasion is not paying the taxes when they are actually due, which is absolutely illegal. These are some of the ways in which people may avoid/evade taxes.

- **Failing to pay the due**

  This is the simplest way in which someone may evade taxes. They simply won't pay it to the government, not even when the dues are called for. A person engaged in this sort of tax evasion won't, willingly or unwillingly, pay the tax before or after the due date.

- **Smuggling:**

  When certain goods move from one location to another, across international or state borders, a tax or charge may be payable in order to move the goods. However, some individuals may move these goods in surreptitious ways in order to avoid paying those taxes that evading the tax altogether.

- **Submitting false tax returns**

  In some cases, when an individual files taxes, they may submit false or incorrect information in order to either lessen the tax that they are supposed to pay or not pay it at all. This is also tax evasion since the complete information is not provided and they may actually be paying less than what they should.

- **Inaccurate financial statements**

  The taxes that are payable by an

individual or an organisation may be decided on the financial dealing that have taken place during the assessment year. If false financial documents or accounts books are submitted, ones that show incomes less than what was actually earned, the tax may come down.

- **Using fake documents to claim exemption**

  The government may have provided certain exemptions and privileges to certain strata or members of society in order to ensure they have a bit more financial freedom to progress. In some cases, members who actually don't qualify for such privileges will get documents created to support their claim of being a part of that group thus claiming exemptions where they are not suited.

- **Not reporting income**

  It could be said that this is one of the most common methods of tax evasion. In this case, individual just won't report any income that they receive during a financial year. Not having reported any income, they don't pay any tax thus successfully evading tax all together. The simplest example of this would be a landlord who has kept tenants but has not informed the authorities that he has rented the house and is actually receiving an income from it.

- **Bribery**

  There may be a situation where there a certain amount due in taxes which the individual may not be willing to pay. In such a case he or she may actually offer a bribe to officials to not make them pay the tax and to make it 'disappear'.

- **Storing wealth outside the country**

  We have all heard tales of Swiss bank accounts. Offshore accounts are accounts maintained outside the country and information about the dealing in these accounts is not disclosed to the income tax department thereby evading any and all taxes due on that wealth.

Penalties for Tax Evasion

There are various penalties that the income tax department can impose on anyone who is found guilty of evading or avoiding taxes. These penalties can also apply to companies that either fail to report and pay their own taxes or fail to deduct taxes at source when they are supposed to.

Some of these may be:

- Collecting 100% to 300% of the tax when income is not disclosed.
- In case of a failure to pay the tax due, the assessing officer may impose a penalty amount but it cannot exceed the amount due in taxes.

- If an individual fails to file tax statements within the time allotted then a penalty of Rs. 200 per day may be charged for every day that the statements are not filed.
- In case someone has concealed details of their income or any fringe benefits that are taxable, the penalty can range from 100% to 300% of the tax amount due.
- In case a person or a company fails to maintain their accounts properly as directed by **section 44AA,** a penalty of Rs. 25,000 may be levied.
- If a company fails to get itself audited or fails to provide a report of said audit, then a penalty of Rs. 1.5 lakhs or 0.5% of the sales turnover, whichever is less, may be charged.
- If a report from an accountant is not provided as directed then a fine of Rs. 1 lakh may be levied.
- In case an organisation fails to deduct tax where it is supposed to while making payments then the penalty could be payment of the tax due.

These are just some of the penalties that can be levied by the Income Tax department and, in some cases, it can be a hefty sum to pay, so best thing to do is to ensure that all taxes are paid when they are due.