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## **THE OFFSHORE TAXATION REVIEW**

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## From the Editors

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# EDITORIAL

The leading article in this issue, by the Consulting Editor, concerns an issue of massive importance to the tax profession as a whole. In the Court of Appeal decision in *R v Charlton*, the distinction between unlawful (and perhaps criminal) tax evasion and lawful (albeit in *R v Charlton* arguably ineffective) tax avoidance is confused. All forms of tax avoidance, in all areas of tax, consciously structure transactions and legal relationships which arise from them to be tax efficient. Some tax planning is more aggressive than others. However, when lawful tax avoidance is tainted with criminality, the prospects are alarming for the profession. Tax litigation is already descending into a lottery, with advisers having to contemplate strained and absurd constructions of various provisions which could defeat tax planning arrangements, or even perfectly commercial arrangements: see *EVC International v Steel*, in which a perfectly commercial joint venture, established with no tax avoidance motive at all, ultimately fell foul of section 839(7) TA 1988 and plunged consortium relief into confusion into bargain. These comments hold true without any notion of disagreeing with any specific finding of fact made by the Court of Appeal in *R v Charlton* as to the dishonesty (or otherwise) of the accused. The editors would welcome further contributions on this and related issues.

It is unfortunate that *R v Charlton* has overshadowed the two other contributions in this issue. Patrick Taylor examines the Isle of Man Limited Liability Company and the Consulting Editor re-examines the House of Lords decision in *Marshall v Kerr*.

The Editors welcome contributions. The Editors particularly welcome debate on points raised in articles appearing in the *Review* (or indeed other Reviews and Journals). All articles (whether long or short), ideas for articles, and other correspondence on editorial matters should be addressed to: Julian Ghosh Esq, Managing Editor, Offshore Taxation Review, 24 Old Buildings, Lincoln's Inn, London WC2A 3UJ.

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February 1997