



# Taxing Matters

## Season 2 Episode 12 – Tackling "Tax avoidance" this Christmas season with Sam Brodsky

**Alexis** Hello, and welcome to Taxing Matters, your one stop audio shop for all things tax brought to you by RPC.

My name is Alexis Armitage and I will be your guide as we explore the sometimes hostile and ever-changing landscape that is the world of tax law and tax disputes. Taxing Matters brings you a roadmap to guide you and your business through this labyrinth.

In case any of you miss any crucial information or just want some bedtime reading, there is a full transcript of this and indeed every episode of Taxing Matters on our website at [www.rpc.co.uk/taxingmatters](http://www.rpc.co.uk/taxingmatters).

I am delighted to be joined today by Sam Brodsky. Sam is a barrister at Gray's Inn Tax Chambers and has a busy practice covering the full range of UK tax, commercial and chancery law. He is regularly instructed in the High Court and the Tax Tribunals both as lead and a specialist tax and/or property junior and, most importantly, he has a pretty good sense of humour!

Today Sam and I are going to have a bit of a laugh and, hopefully, bring you all some Christmas cheer in this special Christmas podcast episode!

As the cost of living crisis bites, this year Sam and I are going to be discussing potential ways of reducing your tax bill - and we'll also have a quick look at Santa's tax position in the run-up to Christmas!

Sam, welcome and thank you so much for joining me today!

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**Sam** Thank you for having me!

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**Alexis** Without further ado then, what are some of the most common "tax avoidance schemes" that you come across on a day to day basis Sam?

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**Sam** Well these are a great lot of schemes - a lot of them you can genuinely try at home!

The first one is cooking your own food. Sometimes known as pastie-gate, because if you buy pre-made hot food from a restaurant, or takeaway, you'll generally be charged VAT. However, many people avoid this tax by cooking their own food, because most cold food items bought from a supermarket are VAT free.

A lot of people will claim to actually like cooking but, under cross-examination, when trying to justify the amount of time and effort it takes to cook and clean up, they can easily come unstuck and I suspect that the true reason they cook is to save on VAT - and that is obviously highly egregious and something the revenue is probably looking at very closely.

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**Alexis** I'm not even sure this can get me to cook to be honest!  
So, what about work life balance then?

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**Sam** We've've had a conservative government who promise not to increase income tax rates but what they've done instead, as well as freezing the thresholds, is to take away certain reliefs including child benefit and person allowance. What that means is you get these very high arbitrary tax rates - between 50 and 60k and also between 100 and 120k, or so - and it can, typically, reach close to 70%. So, for those who adapt their

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	<p>work-life balance, they can effectively avoid these thresholds by not going for the next promotion; by not working overtime.</p> <p>Some people will, obviously, claim that they are genuinely motivated by spending more time with their families, but that's probably not likely at all and HMRC officers may want evidence that you actually enjoy spending time with your family.</p>
<b>Alexis</b>	<b>What about if you have a partner who works?</b>
<b>Sam</b>	<p>Well, for similar reasons, really. Because of the high thresholds and marginal rates, if you have two people earning, say £50,000 each, you'll get taxed at a far-less rate overall than if you are in a couple where one person works and one person doesn't, if that one person earns £100,000.</p> <p>Similarly, couples can share on bills and living costs - generally reducing how much they need to actually earn. So, very conveniently, it's not just progressive to have a partner who works, it's highly tax-efficient and I'm surprised that more and more people aren't doing it!</p>
<b>Alexis</b>	<b>Absolutely! What about supporting small businesses?</b>
<b>Sam</b>	<p>Well, this is something that, really, the Chancellor should be having a look at because businesses grossing under £85,000 a year don't need to register or charge for VAT. That gives those businesses a big competitive advantage because they can charge, effectively, 20% less to the consumer than someone who grosses a little bit more and the statistics show that tens of thousands of small business are deliberately stopping themselves from growing beyond that mark because they will have to charge more - they'll probably lose customers.</p> <p>The other side of that is for the consumer, you can choose to support a small business and they're likely to be able to keep the costs down for you.</p>
<b>Alexis</b>	<b>So, what about leaving the UK, quite a few people seem to be doing that at the moment. Why are they doing that?</b>
<b>Sam</b>	<p>That's obviously a highly egregious tax scheme that's becoming more and more common. People go, they just leave the UK altogether. Doctors going to work in Australia and they say things like, "...well, I'm going for the better work life balance", "...for the weather and the surfing", but also, very conveniently, they no longer need to pay UK tax and, of course - given how easy it is for certain people to be digital nomads these days - the world is becoming more competitive in terms of tax rates. Certainly, jurisdictions are offering special rates to digital nomads and the UK is going to have to look at how it can stay competitive in this increasingly global world.</p>
<b>Alexis</b>	<b>And so, what about entrepreneurs?</b>
<b>Sam</b>	<p>Well, it's interesting that we have a very high rate of tax for those who are employed and self-employed when you combine things like income tax, national insurance contributions and also student loan repayments - which is, effectively, an income tax. But, those who are entrepreneurs can sell their business and pay just 10% tax up to a lifetime limit of £1m, it used to be £10m, and that's known as "business asset disposal relief". It used to be called "entrepreneurs' relief" which is, probably, a better name. Whilst people will tell you that they're doing this to change the world for the better, obviously, it helps a lot if you can change the world and pay a lot less tax than everybody else.</p>
<b>Alexis</b>	<b>And so, what about pensions?</b>
<b>Sam</b>	<p>Pensions are an increasingly important way to reduce your tax bill, especially because of those, rather ludicrous, marginal rates that we were talking about before. People really don't want to be paying those rates and whether that means not taking on those overtime hours, or if it means putting more into your pension, you can avoid paying tax and National Insurance by contributing up to £60,000 a year generally - unless you're on a very high income. That is a very effective way to reduce your tax bill.</p>
<b>Alexis</b>	<b>And what about donating to charity?</b>
<b>Sam</b>	<p>When you donate to charity the charity will generally be able to claim an additional 25% on the sum donated equivalent to your 20% rate but because the maths is in reverse it's 25% and then if you're a higher rate or additional rate tax payer you can then claim the difference through your own self-assessment return. That's</p>

	another great way to reduce your tax bill. There's also inheritance tax relief for those who donate a large portion of their estate to charity.
<b>Alexis</b>	<b>What about electric cars, how do they fit into the mix?</b>
<b>Sam</b>	Well, if you drive electric you don't need to buy fuel so it's great at avoiding road fuel duty. You will also enhance your green credentials since, apparently, they are very good for the environment although some people say that the amount of transportation that goes into producing the batteries in electric cars mean their green credentials aren't quite as good as people like to say. But, certainly, it does help air quality in the city where you live and you can avoid some tax at the same time.
<b>Alexis</b>	<b>What about furskins, moving on to that topic?</b>
<b>Sam</b>	This is a great one!  There's a rather crazy flowchart that HMRC have in their manuals which will set out when they will "zero-rate" and when they will "standard-rate" furs. This applies to children's clothing because adult furs unfortunately will always be standard rated.  The guidance says that "everyday furs" are zero-rated but furs which are "more luxurious" will be standard rated. So, for anyone out there wondering what an "everyday fur" is, it's rabbit, sheep or lamb. But, if you're prancing around in any other type of fur, I'm afraid you are partaking in a luxury activity.
<b>Alexis</b>	<b>This is all very lighthearted but is there a serious message to take away from all of this?</b>
<b>Sam</b>	Yes, I really think that there is. The government needs to look hard at the incentives that they are providing in tax policy. For example, it's odd to me that we're encouraged by the tax code to cook our own food rather than eating out. Eating out, famously as we all know, helps the economy, we should all "eat out to help out".  So many more people are employed by the process of eating out, the economies of scale are much more efficient. People can even work harder and longer if they aren't spending an hour at home cooking their own lunch.  A developed economy would, surely, rather see people eat at restaurants with all the employment associated with that and save time rather than by cooking at home. So, why is it so much more tax efficient to do your own cooking? The rationale is that it helps people on the lowest incomes because it keeps food costs down but we've seen with inflation there can be bigger factors at play and in fact the VAT saving is felt most by those who buy a lot including what are really luxury high-end food items from supermarkets.  It would probably be better to give a more targeted relief or increase in benefits to those who are struggling to buy food rather than this rather poorly targeted tax break - and the other really bad one is the marginal rates. There are lots of people including those in the health sector who are turning down more hours because it just doesn't make sense to work at the moment when the marginal rates are so high and that's all come because the Tories promised not to increase income tax but they wanted to do something which had the same effect so they've tinkered with the system and it gives these rather odd and arbitrary results at the edges that really need to go. We've just had the Chancellor's mini budget and if there was one thing that I wish he had done it would have been to scrap those ludicrous marginal rates but sadly he hasn't.
<b>Alexis</b>	<b>What about marshmallows, specifically big ones?</b>
<b>Sam</b>	Marshmallows are a great way of avoiding tax. You need to make sure that you get your purchase of marshmallows just right. and we can all learn something from the Goldilocks story because, as it happens, giant marshmallows are not classed as confectionary but as a food ingredient; so, they are zero-rated from VAT. The revenue challenged this recently and they lost, the case was called "Innovative Bites". The normal sized marshmallows are confectionery and so they're standard-rate and equally miniature marshmallows if marketed for baking use are zero-rated so for HMRC it is a little bit like Goldilocks, large marshmallows are too large for standard-rating, miniature marshmallows are too small but ordinary size marshmallows are just the right size to be taxed.
<b>Alexis</b>	<b>So, what about my favourite thing, chocolate?</b>

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<b>Sam</b>	Well, if you look in the baking aisle of your supermarket alongside miniature marshmallows you will probably see chocolate that is marketed as for baking. Often that will be cheaper because that also does not need to be charged with VAT. So, the sweet taste of that tiny saving masks the, perhaps, slightly more bitter taste of the cooking chocolate.
<b>Alexis</b>	<b>Absolutely, any chocolate, I'll accept any chocolate! And what about Jaffa Cakes?</b>
<b>Sam</b>	Famously, Jaffa Cakes won their case to be entitled to zero rating as a cake rather than standard rating as a biscuit covered in chocolate. In a more recent case called "United Biscuits" the tax-payer was not so lucky. That was about whether something called a "Blissful" - which I've never tried but it sounds delightful - was wholly or partially covered in chocolate because the top bit was a biscuit, but you could see the chocolate underneath in the middle layer and the tribunal found, sadly, that this still counted as being wholly, or partly, covered in chocolate so they lost their case.
<b>Alexis</b>	<b>What about going teetotal to avoid paying alcohol duty, do we think that's a step too far this Christmas?</b>
<b>Sam</b>	<p>I think that is one step too far, even for those who are really keen to keep their tax bill down! But yes, if you go teetotal, you avoid alcohol duty. In fact, you can get anything up to 1.2% and that will count as "alcohol-free" for these purposes with no alcohol duty payable so perhaps just some very weak wine or beer and you can get the best of both worlds.</p> <p>Interestingly, a lot of alcohol free beer is produced in the same way as normal beer with the alcohol then removed later -also, the alcohol acts as a preservative meaning you don't need the additional complexities of finding some other preservative.</p> <p>So, that's why, when people sometimes ask me why is alcohol free beer still just as expensive as a normal beer, it's because it actually costs more to produce.</p> <p>The good news perhaps the sweet spot for those who love a session at the pub is that a "session ale" has about half the rate of duty as the next category-as normal beers because anything less than 3.4% carries a much lower rate of duty.</p>
<b>Alexis</b>	<b>So, what about people with tiny feet?</b>
<b>Sam</b>	<p>Well, if you have very small feet and you're fortunate enough to be able to buy children's shoes then they are also VAT free.</p> <p>Also much more sparkly.</p>

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<b>Alexis</b>	I actually just much prefer the children's designs anyway. I'm always quite annoyed that I can't get my feet into them. Anyone who can is very lucky!
<b>Sam</b>	And you get Velcro, you don't even need to do laces.
<b>Alexis</b>	Absolutely! And so what about Santa, how's his tax situation looking this Christmas?
<b>Sam</b>	<p>Well, Santa is perhaps one of the most egregious tax avoiders. He's left wherever he was born and he lives in the North Pole where there is no income tax. As far as I know he's not actually in any country long enough to become a resident there, since he's very quick around the globe on Christmas eve - and even if he moved to the UK he'd probably be a 'non-dom', although query how long that beneficial status will last for if we get a Labour government.</p> <p>The other thing that Santa really needs to think about is a gift tax. The UK is one of the best jurisdictions for Santa because there's no gift tax here but, in a lot of other countries, he might be racking up a pretty big bill.</p>
<b>Alexis</b>	<p>Well thank you so much Sam. We've certainly learnt a great deal about all the little ways that we can save a penny or two this Christmas.</p> <p>Unfortunately, that's all we've got time for in this month's episode. Thank you again to Sam for today's podcast. You can contact Sam at <a href="mailto:sam.brodsky@taxbar.com">sam.brodsky@taxbar.com</a>. As ever a big thank you goes to Inciter Productions and Andrew Waterson for the production, music and sound editing of this episode.</p> <p>A full transcript of this episode together with our references can be found on our website <a href="http://www.rpc.co.uk/taxingmatters">www.rpc.co.uk/taxingmatters</a>.</p> <p>If you have any questions for me or for Andrew or any topics you would like us to cover in a future episode, please do email us on <a href="mailto:taxingmatters@rpc.co.uk">taxingmatters@rpc.co.uk</a>. We would love to hear from you.</p> <p>If you like Taxing Matters why not try RPC's other podcast offering, Insurance Covered which looks at the inner workings of the insurance industry hosted by the brilliant Peter Mansfield and available on Apple podcast, Spotify and our website. If you like this episode please take a moment to rate, review and subscribe and remember to tell a colleague about us.</p> <p>Thank you all for listening and talk to you again soon. Merry Christmas everyone!</p>
<b>Sam</b>	Merry Christmas!

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