

343.12 Loss less than £5m

R v Carr 2016 EWCA Crim 2259 D pleaded to fraudulently evading tax. D and his wife, T, ran a successful property renovation business. The business did well and was sub-contracted by a large French company that worked on department stores. That company became insolvent during the 2008 financial crisis and still owed money to D and T who were then declared bankrupt. All VAT registrations connected with them were revoked and the couple split as a result. In 2011, D was asked to be a sub-contractor for another renovation company. D accepted but faced a problem as he could not register for VAT until he was discharged from bankruptcy in February 2012 and the new trade was over VAT registration limit. Until that time, he deliberately used his old company VAT number on invoices. He continued to do so for a further two years despite the fact he did legitimately establish a new company and register it for VAT in February 2012. The net sum of VAT evaded was £181,000 on invoices worth over £1.4m. The amount of income tax D failed to account for was £225,000. D also filed dishonest income tax returns during this period. D was aged 48 and the Judge ignored his string of minor convictions for dishonesty when he was ‘very young’. He had references. The Judge placed the offending in Category A with a leading role, and said that D’s actions amounted to an abuse of power in a position of trust and that the activity was over a sustained period of time. Held. It was not a leading role as the offence was not ‘part of a group activity’. The offending was not ‘an abuse of position of power or trust,’ as D held no special position of responsibility other than to account honestly for tax due. It was on the cusp of Categories A and B. The Judge used the wrong part of the *Fraud, Bribery and Money Laundering Offences Guideline 2014*, namely the Fraud Act and conspiracy to defraud part rather than the fraudulent evasion of tax part. We start at 3 years not 5. With the personal mitigation and guilty pleas, **2 years**’ imprisonment concurrent, not 3.