

Published on AccountingWEB.co.uk (<http://www.accountingweb.co.uk>)

*The Court of Appeal recently upheld the verdict against a small-time tax cheat who was hit with confiscation proceedings for more than £700,000 and the threat of a four-year prison sentence. AccountingWEB.co.uk's experts discuss the implications.*

David Winch this week alerted the community to the **Steed v R** [1] appeal court decision in the **Money Laundering & Fraud** [2] discussion group. The worrying legal precedent set in the case of this apparent “grafter” is that pleading guilty to the relatively minor crime such as failing notifying HMRC of chargeability could lead to much more serious sanctions under the **Proceeds of Crime Act 2002** [3] (PoCA).

### Points of the case

- The Crown Court judge originally described Gareth Edward Steed’s activities as “moonlighting” - legitimate trading which he failed to declare for tax.
- Steed received no tax returns and failed to notify HMRC of his chargeability to tax.
- He was charged with three counts of tax evasion, resulting in the original three charges being dropped, and the introduction of one new charge - to which Steed pleaded guilty.
- The charge was common-law 'cheat', in that between 1 April 2003 and 31 December 2004 he failed "to submit declarations of tax due including the proceeds derived from the sale of vehicles, furniture and tools together with that from building work".
- Steed accepted that a tax liability of at least £3,558 had arisen for 2002/03 which had escaped self-assessment.

However, this was not the end of the matter for Steed, and following his conviction HMRC pursued confiscation proceedings.

HMRC argued that he had a criminal lifestyle for confiscation purposes on the basis that he had committed an offence over at least six months from which he had gained a benefit of at least £5,000 (**s75 PoCA 2002** [4]). According to Winch's analysis they pointed out that had a tax return been submitted for 2002/03 it would have triggered not only payment of £3,558 for 2002/03 but also a payment on account for the following year, in consequence the amount involved exceeded £5,000.

The Crown Court judge found that Steed was unable to produce evidence to rebut the statutory assumptions and made a confiscation order against him for £707,200 under the PoCA - Steed's 'available amount' - with a four year prison sentence in default of payment by the due date.

Steed appealed, but the **Court of Appeal decision** [5] published on 1 February upheld the confiscation order and dismissed his appeal.