Is big business still tax avoiding? You bet it is

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If commentators were to be believed the tax gap is inconsequential.

Then comes a press announcement from HMRC this morning:

As part of its work to improve tax policy making and the stability of the tax system, the Government published a discussion document on 9 December 2010 setting out a draft Protocol on tax announcements outside scheduled fiscal events. This set out the criteria that Ministers will apply when deciding whether an announcement of immediate change is justified.

In line with that draft Protocol, the Government is making such an announcement today, to tackle an aggressive tax avoidance scheme that has been disclosed to HMRC. By acting immediately, the Government is seeking to protect the Exchequer and maintain fairness in the tax system.

A lessee under a plant or machinery long funding lease can claim capital allowances. Some large businesses have entered into contrived, circular transactions involving the sale, leaseback, and reacquisition of their plant and machinery, over a period of three or four weeks, with the aim of claiming tax relief twice on one amount of expenditure.

HMRC has recently become aware that the scheme has been widely marketed and implemented with associated significant risk to the Exchequer. To date instances of the scheme that HMRC are aware of have involved expenditure in excess of £1 billion, putting hundreds of millions of pounds of tax at risk.

Legislation, which will have effect from today, will be introduced in Finance Bill 2011 to confirm that lessees engaging in transactions of this type are only entitled to tax relief up to the actual amount of their expenditure on plant or machinery. This ensures that the rules continue to apply as intended by Parliament and will protect future losses to the Exchequer.

So we have large businesses putting hundreds of millions of tax at risk, we're told.

And there's an insignificant tax gap?

Sorry: it does not stack. The willing is present; the advisers are present and the companies are willing to commit cash to abuse. The tax gap is very real indeed. But until today this was all part of the 'legitimate' allowances and reliefs I'm meant to ignore when preparing my calculations.

Sorry. I don't buy that. And no one should.