

David Gauke, the rich man's apology for a Treasury mini...

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[David Gauke MP](#) is the Tory Treasury Minister responsible for HMRC. He replied for the government in yesterday's debate on tax avoidance and tax evasion. I'd love to find something positive to say about his comments. Candidly, I can't. He couldn't even get his figure for tax avoidance right. He said:

I should first like to set out a few facts on compliance generally. Last year, HMRC collected £474 billion in tax. The tax gap for the last year for which authoritative numbers were produced-2009-10-was £35 billion. Of that figure, tax avoidance constitutes around 14%.

Yet earlier (and Gauke had been present) [his own backbencher Steve Baker said](#):

I will move on to the scale and the breakdown of the tax gap. We had an exchange earlier about the figures. The total tax gap in 2009-10 was £35 billion. Of that, £5 billion or 14% was due to avoidance and £2 billion due to error. The remaining categories were broadly equal. Criminal attacks, evasion and the hidden economy all involve breaches of the law and ought to be pursued in the usual way. I am grateful to the Minister for acknowledging that. The other three categories were a failure to take reasonable care at £4 billion; non-payment, which includes insolvency, at £4 billion; and legal interpretation at £5 billion. Although those figures sound large, we need to bear it in mind that avoidance and legal interpretation, which is a potentially source of avoidance, make up £10 billion of the total of £35 billion stated by HMRC.

So, the true number, according to a Tory who's actually read the data is that tax avoidance is 28% of the tax gap. It's amazing to find the minister's own spin rebutted in advance by his own back bench.

But what was worse, he had no argument. All [he could say was this](#) (and I've edited without in any way changing meaning and for brevity only):

Let me turn to the GAAR. We are improving how we counteract avoidance once it is detected, through the UK's first general anti-abuse rule.

I know that there is an alternative argument, based on the proposal from the right hon. Member for Oldham West and Royton, which was drafted by Richard Murphy, as he said. However, I would make this argument to him:

"I...think that many appropriate checks and balances are built in to the drafting. HMRC cannot use this"- the GAAR- "willy-nilly, and that's right. This should be a tool of last resort and not a battering ram for widespread use."

Those words are from Richard Murphy, who was commenting on Graham Aaronson's proposals. I know that Mr Murphy will be following this debate closely, and I think it right that we quote his views thoroughly. He also said:

"Appropriate defences for action are built in. Safeguards to prevent HMRC over-using the provision are included. The result is that the rule will be used against egregious cases, and not be aimed at all tax planning. That's right: where the law provides for choice, planning is inevitable and right and I for one have never denied that fact."

Finally, Mr Murphy said this in response to the Aaronson proposals:

"Let's have no doubt about it: this is a very big step forward for tax justice and I warmly welcome this report and hope it moves rapidly towards becoming law."

I entirely agree with those comments. I do not, in all fairness, always agree with Mr Murphy, and he does not always agree with me, but on this occasion he is absolutely right to set out the fact that there are safeguards.

So, apparently, the only issue worth debating on tax avoidance is what I think about it. Candidly, flattering as that is, it's also an exercise in ducking the issue. Gauke also misses the point that Meacher's Bill provides massively better safeguards: I stuck by my words.

But worse, as Michael Meacher rebutted to Gauke, immediately, that's mighty selective misquotation from Gauke [of a blog I wrote on 21 November](#). That offered far from unqualified acceptance of Aaronson's report, which I'd had for a few hours at most at the time. It's blatantly obvious Gauke is wholly misrepresenting me. Of course I said that day I welcome a proposal for a GAAR: let's give an analogy to explain why. If we had no drink driving law in the country and I'd been campaigning for one any first such law would be welcome, even if flawed. That was my reaction to Aaronson: it was better than nothing.

But within days the detail was making it clear that there were serious problems with Aaronson's final report [and I also made that very clear, here and elsewhere](#). It was lame of Gauke not to make clear he knew that, although his looking straight at me whilst saying this from the Chamber, addressing me in the public gallery, sure as heck showed he knew what he was doing.

If we have a government that has descended to such depths on debating such a serious issue I think we can be quite sure that it has no intention of all of having a GAAR that works. Michael Meacher put it rather well in that case. Having torn the Aaronson proposal to shreds [he said](#):

The Government have said that they will accept the Aaronson proposals in full-what a surprise! So the Prime Minister's boast that he was cracking down on aggressive tax avoidance turns out to be nothing more than a paper aeroplane job devised in the certain knowledge that it will never fly.

Quite so.