

# The General Anti-Tax Avoidance Principle Bill - a brief...

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PCS has given me permission to re-publish here their briefing to MPs on Michael Meacher's General Anti-Tax Avoidance Principle Bill that is being debated in the House of Commons this afternoon and is formally having its second reading tomorrow.

## **PCS Briefing General Anti-Tax Avoidance Principle Bill**

Second reading — 14 September 2012

### **Background**

PCS welcomes moves to tackle tax avoidance. [We have long campaigned as a union against the loopholes and cuts in HM Revenue and Customs' resources that have allowed this practice to rid the Treasury of £25 billion per year.](#)

We note that senior members of the government have been keen to tap into public anger at high profile cases of tax avoidance by declaring it “morally repugnant.”

However, we not believe that the [government's general anti-avoidance rule \(GAAR\)](#) goes far enough to tackle the problem. Their own economic impact assessment suggests it will have no measurable economic impact and it proposes to only stop the most abusive of tax schemes.

### **HMRC resource issues**

Continuing to cut jobs and close offices in the very department responsible for collecting tax revenue makes no economic sense as is hindering HMRC's effectiveness in tackling avoidance and evasion. Perhaps that is why the Prime Minister claimed his government has overseen a rise in staffing levels in HMRC. In fact, since they came into power staff numbers have fallen by over 7,000.

It is true that the government are recycling over £900million in savings into HMRC to tackle tax evasion and avoidance but this must be seen in context. The government

plans to make an overall budget cut of £3billion by 2014/15 and is in the process of cutting 10,000 jobs.

HMRC is woefully under resourced. We are encouraged that the Department is trying to rectify this by employing 1,000 new posts in its contact centres to handle customer need. The department appears to have acknowledged it has a staff shortage, we believe that it is time the government admitted there is a problem.

The government's continued policy of closing local HMRC offices also hinders any clamp down on tax avoidance and evasion as it takes away the local knowledge needed to ensure compliance.

In short, the reality of government's actions on tackling tax avoidance is not anything near as strong as some of their rhetoric. This is why we ask MPs to support the Private Member's Bill being brought forward by The Right Hon Michael Meacher MP.

### **The General anti-tax avoidance principle Bill**

This Bill is a lot broader in scope than the government's GAAR. For example it covers VAT and national insurance, almost doubling the value of the taxes compared to the GAAR which excludes these taxes.

Richard Murphy of Tax Research UK, the author of the Bill, has set out clearly the benefits of the general anti-tax avoidance principle (GATAP).

- \* It is designed to target abuse on a wider range of tax issues. It attacks shifting income from one tax to another to reduce the tax paid and it challenges any scheme resulting in tax paid late. It also tackles any scheme that might artificially shift a profit subject to tax out of the UK.
- \* In addition if it seems that the wrong person is paying tax on a source of income or that the source of income in question is wrongly described e.g. as investment income when it actually seems to come from a profit or employment, then the general anti-tax avoidance principle bill (GATAP) gives HMRC the power to challenge the arrangement.
- \* The Bill will give HMRC the right to look at what has really done in a transaction, and who really seems to be involved in it, and then to compare the economic reality with the way in which the transaction has been reported for tax (or has not been reported if someone has tried to shift it right out of the UK tax net).
- \* If the substance of what has happened agrees with the way (or form) in which it is reported for tax then HMRC cannot challenge it, unless of course it falls foul of some other provision. But, if the substance and form don't agree then HMRC are given the right to correct the way in which the tax is assessed. They are given the power to do

this by letting them demand the tax they think is due under whichever tax and tax law they think is appropriate from whoever they think really owes it as long as they can prove why this is the case. Such a principle is not an excuse for arbitrary taxation.

\* The taxpayer is protected. Arrangements specifically allowed or encouraged by law are specifically exempted from challenge, and HMRC are encouraged to list what these are. In addition taxpayers are given the right to apply for a clearance from HMRC in advance of any transaction to make sure that it is acceptable and that the GATAP would not apply to it.

What this Bill will do is give HMRC the power to attack any arrangement put in place to avoid tax, subject to a clearance system and comprehensive guidance on what is and is not acceptable so that most tax payers will have no risk at all of falling foul of this new measure.

As such, GATAP is vital as it will raise significant tax revenue needed to fund public services which are under threat because of a lack of it. It could also be used to help reduce the deficit.

It will also stop tax competition determining which businesses win and lose in the UK economy. Too often honest and responsible businesses lost out to those who avoid tax. This could be the opportunity to meet the growing demand for a new corporate ethic.

PCS urges MPs to support GATAP and calls on the government to reverse its programme of cuts in HMRC which hinder any serious initiative to tackle tax avoidance.