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GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

**(Except clauses 1, 4, 8, 189, and 209, schedules 1, 23 and 33 and certain
new clauses and new schedules)**

Sixth Sitting

Tuesday 22 May 2012

(Afternoon)

CONTENTS

CLAUSES 7, 9 and 10 agreed to.
Adjourned till Thursday 24 May at Nine o'clock.

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The Committee consisted of the following Members:

Chairs: † MR PETER BONE, MR JIM HOOD

- | | |
|---|---|
| † Baldwin, Harriett (<i>West Worcestershire</i>) (Con) | † McKenzie, Mr Iain (<i>Inverclyde</i>) (Lab) |
| † Barclay, Stephen (<i>North East Cambridgeshire</i>) (Con) | † McKinnell, Catherine (<i>Newcastle upon Tyne North</i>) (Lab) |
| † Blenkinsop, Tom (<i>Middlesbrough South and East Cleveland</i>) (Lab) | Malhotra, Seema (<i>Feltham and Heston</i>) (Lab/Co-op) |
| † Burley, Mr Aidan (<i>Cannock Chase</i>) (Con) | † Mann, John (<i>Bassetlaw</i>) (Lab) |
| † Elphicke, Charlie (<i>Dover</i>) (Con) | † Mearns, Ian (<i>Gateshead</i>) (Lab) |
| Garnier, Mark (<i>Wyre Forest</i>) (Con) | † Mills, Nigel (<i>Amber Valley</i>) (Con) |
| † Gauke, Mr David (<i>Exchequer Secretary to the Treasury</i>) | † Morrice, Graeme (<i>Livingston</i>) (Lab) |
| † Gilmore, Sheila (<i>Edinburgh East</i>) (Lab) | † Morris, Grahame M. (<i>Easington</i>) (Lab) |
| † Gyimah, Mr Sam (<i>East Surrey</i>) (Con) | † Pugh, John (<i>Southport</i>) (LD) |
| Hamilton, Fabian (<i>Leeds North East</i>) (Lab) | † Rees-Mogg, Jacob (<i>North East Somerset</i>) (Con) |
| † Hands, Greg (<i>Chelsea and Fulham</i>) (Con) | † Reeves, Rachel (<i>Leeds West</i>) (Lab) |
| † Harrington, Richard (<i>Watford</i>) (Con) | † Smith, Miss Chloe (<i>Economic Secretary to the Treasury</i>) |
| Hilling, Julie (<i>Bolton West</i>) (Lab) | Swales, Ian (<i>Redcar</i>) (LD) |
| † Hoban, Mr Mark (<i>Financial Secretary to the Treasury</i>) | † Syms, Mr Robert (<i>Poole</i>) (Con) |
| † Jamieson, Cathy (<i>Kilmarnock and Loudoun</i>) (Lab/Co-op) | † Williams, Stephen (<i>Bristol West</i>) (LD) |
| † Kirby, Simon (<i>Brighton, Kemptown</i>) (Con) | † Williamson, Gavin (<i>South Staffordshire</i>) (Con) |
| † Lavery, Ian (<i>Wansbeck</i>) (Lab) | Wilson, Sammy (<i>East Antrim</i>) (DUP) |
| | Simon Patrick, <i>Committee Clerk</i> |
| | † attended the Committee |

Public Bill Committee

Tuesday 22 May 2012

(Afternoon)

[MR PETER BONE *in the Chair*]

Finance Bill

(Except clauses 1, 4, 8, 189 and 209, schedules 1, 23 and 33 and certain new clauses and new schedules)

Clause 7

SMALL PROFITS RATE AND FRACTIONS FOR FINANCIAL YEAR 2012

Amendment proposed (this day): 6, in clause 7, page 4, line 28, at end add—

‘(4) The Chancellor of the Exchequer shall review the impact of the corporate tax structure on businesses of different sizes, and shall place a copy of the review in the Library of the House of Commons.’—(Catherine McKinnell.)

4.30 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing clause stand part.

Catherine McKinnell (Newcastle upon Tyne North) (Lab): It is an honour to serve under your chairmanship, Mr Bone.

I will finish the winding up of our discussion. My hon. Friend the Member for Bassetlaw put forward a powerful case for supporting the Bakewell pudding, and we have heard much talk of pasties and Greggs, but that is the very point of the amendment. The Budget and the measures in the Bill will have an impact on businesses of all shapes and sizes, up and down the country, and the amendment seeks transparency and clarity regarding that. My hon. Friend the Member for Wansbeck has twice put the question clearly: what are the Government trying to hide by not supporting the amendment?

We have also heard about the need for immediate action to help small businesses and the need for a real plan for jobs and growth—a plan B—and the International Monetary Fund agrees with us. The shadow Chief Secretary, my hon. Friend the Member for Leeds West, touched upon this this morning, but it bears repetition: the IMF’s managing director, Christine Lagarde, has today effectively called for a plan B for the British economy. She has spoken of the need for temporary tax cuts and greater infrastructure spending, saying that “policies to bolster demand” are needed now, “before low growth becomes entrenched”.

It is worth reminding the Government that we are in a double-dip recession as a result of spending cuts that have gone too far, too fast, choking off recovery. The Government are on the wrong side of the argument, and they are starting to look isolated. Miss Lagarde

agrees that we need immediate action to tackle the double-dip recession. As the shadow Chancellor said earlier today, how much worse do things have to get before the Government realise that their approach is failing?

We all know that the Government are borrowing an extra £150 billion over the spending period. That cannot go on. It is time to act, and Ministers should think of the amendment as a small step towards recognising that austerity might not be the answer and that, as the IMF suggests, there might be a real alternative.

Charlie Elphicke (Dover) (Con): I congratulate the hon. Lady on her appointment. Christine Lagarde says that fiscal consolidation is, in fact, needed:

“Sometimes you feel like you could look back and wonder ‘what if?’. And when I think back myself to May 2010, when the UK deficit was at 11%, and I try to imagine what the situation would be like today if no such fiscal consolidation programme had been decided...I shiver.”

Catherine McKinnell: I thank the hon. Gentleman for that speedy intervention.

There was no decision not to implement a deficit reduction plan. In May 2010 we had a change of Government, and whichever Government had come in would have had to implement such a plan. [HON. MEMBERS: “Ah!”] Well, we have always argued that it needed to be at the right pace so as not to choke off growth, a position that the IMF agrees with and supports us in. This deficit reduction plan has gone too far, too fast—we are in a double-dip recession.

Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): Will my hon. Friend note this quote from Christine Lagarde?

“Unfortunately the economic recovery in the UK has not yet taken hold and uncertainties abound. The stresses in the euro area affect the UK through many channels. Growth is too slow and unemployment—including youth unemployment—is too high. Policies to bolster demand before low growth becomes entrenched are needed.”

Does that not give weight to my hon. Friend’s argument?

Catherine McKinnell: Absolutely. Most of what Christine Lagarde said this morning gives weight to the Opposition’s argument.

It might be a little ambitious to think that the amendment could be the trigger that changes the Government’s view, but something has to, and so the question needs to be asked. I urge Members to support the amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 10, Noes 16.

Division No. 6]

AYES

Blenkinsop, Tom
Gilmore, Sheila
Jamieson, Cathy
Lavery, Ian
McKenzie, Mr Iain

McKinnell, Catherine
Mearns, Ian
Morrice, Graeme (*Livingston*)
Morris, Grahame M. (*Easington*)
Reeves, Rachel

NOES

Baldwin, Harriett
Barclay, Stephen
Burley, Mr Aidan
Elphicke, Charlie

Gauke, Mr David
Gyimah, Mr Sam
Hands, Greg
Harrington, Richard

Hoban, Mr Mark	Rees-Mogg, Jacob
Kirby, Simon	Smith, Miss Chloe
Mills, Nigel	Syms, Mr Robert
Pugh, John	Williamson, Gavin

Question accordingly negated.

Clause 7 ordered to stand part of the Bill.

Clause 9

POST-CESSATION TRADE OR PROPERTY RELIEF: TAX-GENERATED PAYMENTS OR EVENTS

Catherine McKinnell: I beg to move amendment 7, in clause 9, page 5, line 44, at end add—

‘(9) The Chancellor of the Exchequer shall review the ability of HMRC to deliver the anti-avoidance measures contained in this section and lay a report of his review before Parliament.’

The Chair: With this it will be convenient to discuss clause stand part.

Catherine McKinnell: While in no way seeking to undermine the fundamental importance of the Committee and our work today, I have to say that some of the more esoteric and minor clauses in the Bill relate to issues that, shall I say, are not often the subject of conversation around a dinner table—at least not my dinner table—although admittedly I cannot speak for the Exchequer Secretary.

Clause 9 and amendment 7, however, are different. Under the Government, the performance of HMRC has become an issue, causing anxiety for thousands of people across the country. I am sure that the Exchequer Secretary will agree that more often than not, if the Revenue is discussed in homes around the country, the conversation is unlikely to be about how well it is doing.

From my own experience, I know that the functioning of the Revenue and the extent to which it prioritises tackling tax avoidance are not issues of real concern to my constituents and to many of yours, Mr Bone. Over the past year, my mailbox has been inundated with e-mails related to people underpaying and overpaying tax; the time it takes to get a response from the Revenue; concerns about Government plans to privatise HMRC call centres; and concerns about the unfairness of the so-called sweetheart deals with the likes of Vodafone and Goldman Sachs. Even accountants have been contacting me on behalf of their clients, desperate to get some response or resolution. That is worrying; if accountants are struggling to make any headway with HMRC, what chance do ordinary members of the public have?

Those issues all speak to a wider concern, which is why we have tabled the amendment. Government cuts are leaving the Revenue overstretched and underperforming, calling into the question the ability of HMRC to deliver anti-avoidance measures in the clause and elsewhere. Our amendment would shed light on the reality of the situation and enable a proper verdict to be reached on whether the Government’s tough rhetoric is being matched with tough action, something that the Opposition have our doubts about.

Before speaking to our amendment and our wider concerns, I would like to focus more narrowly on clause 9 and the targeted anti-avoidance measure that the clause legislates for.

When used legitimately, post-cessation relief is an important relief for many individuals. It was originally designed for tradesmen and professionals who incurred business-related costs after ceasing to operate. The clause formally puts on the statute book the action taken by the Government to prevent schemes being set up to abuse the relief. Although the Government are unable to divulge full information about their source and the full nature of the schemes, we know that Her Majesty’s Revenue and Customs was made aware of artificial trading companies being created in tax havens with the sole aim of enabling wealthy individuals to avoid paying their fair share of tax.

Such schemes are an abuse of the relief, and the Government are absolutely right to crack down on them, not least because, as reported in *The Daily Telegraph*, failure to close the scheme could have cost the Treasury upwards of £1.5 billion. We welcome the action of the Government, but I have two questions for the Minister on the specific targeted measure for which the clause legislates. First, the written statement that announced the legislation said that HMRC had recently been made aware of the scheme. What further information can the Minister provide about how much time elapsed from when HMRC was made aware of the scheme and when the scheme was closed down?

Secondly, will the Minister assure the Committee that the framing used in the legislation, most specifically where the main purpose, or one of the main purposes, is obtaining a reduction in tax liability, is not so ambiguous that it could end up capturing legitimate users of the relief? Has he received any representations that suggest it could? I look forward to hearing the Minister’s response on these matters later.

As I suggested in my introductory remarks, our amendment is less about this specific targeted measure and more about our wide concerns surrounding the impact that spending cuts are having on HMRC’s performance. When it comes to the scale of the cuts, our amendment would help to shed light on the issue. Bluntly, the Government have not been entirely straightforward on the overall cuts to HMRC and the overall reduction in staffing numbers.

Channel 4 recently carried out an especially revealing fact check on the number of staff employed by HMRC following a claim by the Prime Minister during Prime Minister’s Question Time that staffing levels at Revenue and Customs had been increased. To say the least, his claim raised a few eyebrows. In reality, the Government have introduced real-term cuts to HMRC’s budget of 16.5% by 2014-15. Those are figures from the National Audit Office, whose estimate translates into 10,000 job losses in HMRC. The report goes on to say that as a result of these cuts, staffing levels will be at an all-time low by 2015. The recent Public Accounts Committee report said:

“Not enough is known about the impact of resource reductions at HMRC on the administrative burdens faced by businesses and individuals. It would be counterproductive if ‘efficiencies’ achieved at HMRC resulted in greater costs being placed on the wider economy. Such a result would impede growth.”

[Catherine McKinnell]

Our amendment might also reveal, as the PAC report suggests, that stopping the resource reductions might actually help growth. That is something that we hope the Government would welcome, given that we are in a double-dip recession.

Graham Black from the Association of Revenue and Customs has also expressed concern about reductions in staff levels. In a recent article for *The Guardian*, he said:

“Any organisation facing 10 years of successive cuts would struggle with the consequences, and the problems HMRC has faced in recent years stem from this. In the spending review, the Treasury intended to cut the HMRC budget by a further £3bn over three years, but only cut it by just under £2bn—and this is what Osborne calls an investment of £900m. I know of nowhere else where a £2bn cut is described in such a way.”

Our amendment would bring clarity to the level of cuts that HMRC is facing, which is necessary because of the negative impact that the cuts are having. Waiting times are up significantly, as revealed by the Exchequer Secretary in response to a recent parliamentary question, and as I said earlier, that is making the Revenue appear more detached and less responsive to taxpayers’ needs. If we take June as an example, average waiting times rose from one minute and 28 seconds in 2009-10, to five minutes and 10 seconds two years later. *The Telegraph* has reported that due to such long waiting times, one in four people who phone HMRC hang up in frustration. That is not good enough.

4.45 pm

There is also a perception among some, no doubt driven by what are perceived to be sweetheart deals with companies such as Goldman Sachs and Vodafone, that large organisations receive preferential treatment at the expense of individuals and small companies. Cutting 10,000 staff from HMRC appears to be counter-productive.

Staffing levels are, of course, inextricably interlinked with the Government’s ability to tackle tax avoidance. If we believe the Government’s rhetoric on staffing levels and tax avoidance, we should expect them to be bringing in a lot more than previous Governments did from anti-avoidance measures. However, as I will explain, that is not the case.

The Exchequer Secretary to the Treasury (Mr David Gauke): It is.

Catherine McKinnell: I give way to the Minister.

Mr Gauke: I will let the hon. Lady make her case, but I assure her that I can present her with numbers showing that compliance yield is increasing year on year.

Catherine McKinnell: The Government like to talk tough on tackling tax avoidance. The Chief Secretary to the Treasury stated:

“There are some people who seem to believe that not paying their fair share of tax is a lifestyle choice that is socially acceptable...Like the benefit cheat, their actions take resources from those who need them most...Tax avoidance and evasion are unacceptable in the best of times, but in today’s circumstances it is morally indefensible.”

Morally indefensible, or, as the Chancellor said in his recent omnishambles of a Budget, “morally repugnant.” Soon after, however, he admitted to being shocked at the extent of avoidance, although not shocked enough to reverse the cuts in staffing levels. Despite their rhetoric, a cursory overview shows that the Government are not doing enough, and moreover, that we did more to tackle avoidance.

Figures from the Institute for Fiscal Studies show that between 2002 and 2009 Labour reduced tax avoidance by more than £12 billion, while the 2012 Budget will reduce tax avoidance by just £800 million. That is less than Labour’s average, and less than all but two of the other Budgets from the past decade. That is without considering the new charity tax that the Government have imposed, which they expect to incorporate within their figures.

That is the reality of the situation. Cuts of £2 billion to HMRC’s budget are leaving it overstretched and underperforming, and the Government are not doing as much to tackle avoidance as they would have us believe.

Mr Iain McKenzie (Inverclyde) (Lab): I am sure my hon. Friend will agree that we cannot take such a sizable sum out of a budget, and remove that number of employees and the amount of expertise available, and hope to stay one step ahead of those who avoid paying their tax.

Catherine McKinnell: My hon. Friend makes an important and valid point. As I said at the beginning of my contribution, my constituents are feeling the pain. In fact, my office is feeling the pain because of the number of queries, complaints and requests for help that we get from constituents. I am sure that that is repeated up and down the country, and it is increasing, not decreasing, in scale. That is a huge concern because as we face the deficit reduction that is required to get our economy back on track, we need HMRC to be our ally in that effort. We should not be reducing, depleting and demoralising it to such an extent that it can no longer perform that function to the extent that it should. It is clearly counter-intuitive and a false economy, and as my hon. Friend pointed out, it is creating even more of a David and Goliath situation. Staff numbers are reduced to such a level that people are unable to compete with the tax-avoiding accountants and advisers that many companies are in a position to arm themselves with.

The Government’s ideologically driven cuts extend—yes—to their allies in reducing the deficit. As far as I can tell, in reducing HMRC numbers to the current level, the Government are cutting off their nose to spite their face. Our amendment would help to expose that reality, and I urge hon. Members to support it.

John Pugh (Southport) (LD): May I begin with an apology? This morning, I failed to welcome the hon. Lady to her new position and the stresses and strains that it will involve, and I want to make up for that.

May I also welcome the change in tone? We are now concentrating on specific issues, which is a wholly good thing. Up to now, we have been getting a plethora of Second Reading speeches, with amendments being a peg on which they have rested. I am not sure which

audience people thought they were speaking to, but that has meant substantially slower progress for us all, poorer scrutiny and probably less fun. It also saves Ministers a lot of work, because I am sure they prefer outright denunciation on a constant basis to probing inquiries—that is far easier to deal with.

The test of an amendment is to negate it or to insert the word “not” at some point, and if that generates an obviously ludicrous proposition, generally speaking, it does not amount to much. To suggest that the Chancellor should not or does not review his work is evident nonsense—he does, and so should Parliament. I believe that the Chair of the Treasury Committee harbours a real interest in, and ambitions for, more reviewing. The Committee wants to concentrate its future work on the narrow effects of the real-time tax take of particular changes and on the behavioural changes that they induce in taxpayers. Frankly, we do not carry out enough ad hoc research on the rather dull, boring and tedious matter of the execution of tax policy; we often discuss its initiation, but we do not look, many years later, to see what it has done. It is a dull area, but it is important and well worth concentrating on none the less.

There are genuinely contentious issues relating to HMRC’s capacity to cope with the Treasury’s demands. Everyone is aware that local tax offices have been closed in large numbers recently—one closed in my constituency—and that the Government have a plan, of which the proposals that we are discussing are part. The plan is to concentrate central strategic resources on tax avoidance. They will complement taking staff off processing with putting more on tracking down avoidance and people who have failed to comply, and will engage in more sophisticated data-matching processes and the like.

There is some precedence for that. People may be aware that over the years, Customs and Excise has tended to work on a more intelligence-led basis. It has used fewer and fewer people to examine cargoes regularly, which was an infertile approach from its point of view. That work has been assessed as being quite effective by the National Audit Office and the Public Accounts Committee.

Sheila Gilmore (Edinburgh East) (Lab): I understand the hon. Gentleman’s argument that it is important to move people on to working in that field. Does he therefore agree that it is regrettable that the complications that the Budget has introduced into child benefit administration will probably make it much more difficult to do that?

John Pugh: I will not get sidetracked, but a rational argument can be made for the benefits of using local tax offices to process people’s individual tax returns and having the more automated and systematic approach that HMRC currently favours. I think it is called the lean system. It is probably a little bit early to assess the benefits of the lean system and its impact on tax evasion, tax avoidance, and the like, but that work should be done. I support the sentiment behind the amendment, which is that we should consider not just what the Government announce, but the follow-through and how effective a measure is across the board. I am sure that, in a sense, the Treasury does that pre-emptively, by considering what the effect of individual pieces of legislation might

be, and that it does a certain amount of work retrospectively, because it needs to know about the effects of particular bits of legislation and what they will, or will not, accomplish.

My hon. Friend the Member for Redcar slightly maligned the previous Government in an intervention this morning, saying that most of the data produced by the Treasury indicating projected tax take and growth figures, and the like, had been woefully wrong, systematically, over a decade or so. Although I do not want to rush to that Government’s defence, I do not think that that is so. The Treasury tended to get growth figures right more often than some independent forecasters; except for in the run-up to an election, it does not have a vested interest in getting it wrong, because it has to deal with the real-time effects of getting things wrong. I have nothing against Governments assessing such matters, and I am sure that any prudent Government would endeavour to do so, but they will rarely do that neutrally or dispassionately, because they are the authors of the strategy that they are assessing and are investing considerable personal resources to get it to work.

My portmanteau reply to many of the amendments moved recently by the Opposition would be that reviews of the kind that they have proposed are best done by bodies such as the NAO, and scrutinised in this place by bodies such as the Public Accounts Committee. Work has been done on this issue.

Grahame M. Morris (Easington) (Lab): I am intrigued by the hon. Gentleman’s critique. He is saying that it is inappropriate for Parliament to scrutinise something as important to the public as the Government’s success in relation to tax avoidance. He might recall that during the debate on the Health and Social Care Bill he supported a proposal, which has since become law, that the Secretary of State should, every year, lay before Parliament a mandate, setting out his plans for the NHS. Why is the suggestion in the amendment so different?

John Pugh: The hon. Gentleman is putting a suggestion into my mouth that was not there. Governments will and do report to Parliament in Budget statements and the like, and are constantly interrogated at Question Time and through hon. Members’ efforts. Any report done by the Government on their own work is a form of self-assessment, which has certain intrinsic, obvious weaknesses.

I prefer independent assessment, and I think we get that in this place, albeit that people do not pay sufficient attention to it. The hon. Member for Newcastle upon Tyne North mentioned tax compliance, and quoted the Public Accounts Committee. She pointed to research done by the NAO on how HMRC was getting on with simultaneously tracking down tax avoidance and reducing the headcount at HMRC. That is not an unblemished report; we should be honest enough to look at it and consider what might be done on the matter.

The NAO report, “The Compliance and Enforcement Programme”, which I recommend to all Committee members, says on page 7:

“HMRC delivered the Programme’s planned headcount reductions early but productivity improvements to 2011 were lower than expected.”

[John Pugh]

More importantly, it says:

“HMRC estimated the financial impact of having fewer staff—and thus conducting fewer compliance interventions—by reducing the gross yield attributable to the Programme by £1.1 billion.”

The Treasury proffers figures—I suspect that people may be inclined to take their own view on whether those are to be believed—suggesting that, although it has reduced the headcount, it has not done as well on tax compliance as it hoped to.

I am grateful for that independent assessment from the NAO, and I am delighted that the report was scrutinised vigorously by the PAC and reported on. That process is superior to self-assessment—to the Treasury marking its own work, which is what the Opposition are suggesting.

5 pm

Grahame M. Morris: I am grateful to you for calling me to speak, Mr Bone. It is a pleasure to serve under your chairmanship. I think that the last time I did so was on the Committee considering the Health and Social Care Bill, which the hon. Member for Southport also served on.

I support the amendment, which is quite reasonable. As I have mentioned, if we believe in the principle of effective scrutiny, I really do not understand why those on the Government Benches would have any particular issue with the proposal. The amendment says:

“The Chancellor of the Exchequer shall review the ability of HMRC to deliver the anti-avoidance measures contained in this section and lay a report of his review before Parliament.”

That is analogous to the proposal in the Health and Social Care Bill that the Health Secretary should lay before Parliament a mandate that sets out his plan of work. I do not see a revolutionary difference between the two proposals.

Stephen Barclay (North East Cambridgeshire) (Con): Could the hon. Gentleman say why he believes that the Chancellor, given individual taxpayer confidentiality, will be better able to judge the compliance of individual firms than Sir Andrew Park, who is conducting a judicial-led inquiry on behalf of the NAO at the request of the Public Accounts Committee, of which I am a member, into the details of non-compliance?

Grahame M. Morris: That is an interesting point. The report on the review that the Chancellor would lay before Parliament would not necessarily go into specific details of individual cases, but it is important for effective scrutiny that Parliament and the public know that the Government are following through on their commitment. [Interruption.] I am sorry; I did not quite catch that.

I hope to develop this argument, because there were excellent contributions in debates on earlier clauses, notably from the hon. Member for Dover, who highlighted his concerns about issues of tax evasion and avoidance.

Stephen Barclay: Will the hon. Gentleman give way?

Grahame M. Morris: Well, I do think that most ordinary members of the public find the whole idea of tax avoidance and evasion morally repugnant, and it

behoves the Government to follow through on their public commitment to doing something about those issues.

Stephen Barclay: The hon. Gentleman is not addressing the central point, which is why he believes the Chancellor, who cannot look at individual cases, is better equipped to assess compliance than the NAO, which can look at individual cases.

Grahame M. Morris: If we are making a comparison with health and social care, there are a number of organisations, including the Care Quality Commission, that could make an assessment.

Stephen Barclay: The hon. Gentleman very kindly mentioned the CQC. I am sure that he is aware that the PAC recently assessed the CQC. It was a case study in the failure of regulation. Indeed, so damning was the report by the Committee—chaired by the right hon. Member for Barking (Margaret Hodge), who is a Labour Member—that it led to the resignation of the CQC’s chief executive. I suggest to the hon. Gentleman that of all the organisations to pray in aid, the CQC is perhaps not the best to opt for.

Grahame M. Morris: With due respect, the point that the hon. Gentleman has just made completely supports my argument, does it not? My argument is that perhaps there is more authority in the Minister or the Chancellor presenting such a report and being held to account by Parliament than in other proposals, so I do not see that there is any conflict there. [Interruption.] Well, I am not suggesting that there is any impropriety with the NAO. I am sorry to digress, Mr Bone, but I have been tempted to do so. A little earlier, in Attorney-General’s questions, I suggested that the Serious Fraud Office might want to investigate issues of serious fraud in the Department for Work and Pensions. There is the question of A4e, for example—a case where millions of pounds of public money have been misappropriated. There are arguments for and against. Whether it is a Minister or a particular organisation that does the review, the suggestion in the amendment is that the Chancellor should be responsible for it. I hope that that covers the issue. I do not want to deviate any further from the amendment.

I was surprised by the Chancellor’s conversion on the road to Damascus. He believes that the wealthiest people in the country should be paying a fair amount of tax. Most ordinary members of the public would hold that view as a matter of course. His conversion came as a shock to himself and to the public, particularly as he had been in the job for two years. He must have had some indication of the situation during that period, as someone who regularly scrutinises the books and receives information from various public bodies’ audits and accounts and so on.

The Chancellor’s comments did, however, come at a convenient time—a time when he was looking to cut taxes for the rich while doing very little for those on low and middle incomes. I certainly welcome moves by HMRC to raise the issue of artificial companies set up in tax havens as part of elaborate plans to enable some wealthy individuals to avoid paying tax. Those moves give us the opportunity to test the effectiveness with which Government can challenge such unacceptable and rogue behaviour.

My hon. Friend the Member for Newcastle upon Tyne North referred to survey evidence published in *The Daily Telegraph*. That is not a newspaper that I would normally subscribe to; I am more a *Morning Star* man. However, *The Daily Telegraph* has estimated that not closing such loopholes could have cost the Exchequer more than £1.5 billion. It is a Conservative newspaper, and I think that that is a very conservative estimate. I would be interested to hear the Minister's latest estimate of how much could be saved for the Exchequer and the taxpayer by closing the loopholes and artificial companies. Certainly—I think I speak for everybody on the Opposition side—we would welcome any such effort to close blatant tax avoidance mechanisms that have been and are being used by the super-rich.

I am sure that I am not the only member of the Committee to find much of the language necessarily used in the clause somewhat technical. I am not sure that I am the only Member who would admit to not knowing the particulars of how a targeted anti-avoidance rule—TAAR—might operate to close such a scheme. While the TAAR that we are discussing took effect from 12 January and is legislated for here, so its effect is retrospective, I know that our amendment calls for a few simple actions that should be taken by Government. First, they should consider whether HMRC is adequately placed to maintain the anti-avoidance measure, and secondly, whether it is being adequately resourced by Government so to do.

I believe, contrary to the assertions made by Government Members, that it is right for Parliament to be the arbiter, alongside Government, of the effectiveness of closing down avoidance regimes. All of us have a responsibility to our constituents—every single one—to say that we will target the tax-avoiding rich, just as much as the *Daily Mail* and its followers would expect us to crack down on the minority who cheat the benefits system. When the amount of money lost to the Revenue is so mind-boggling and so extraordinary, we must question why the Government's first move when entering office was to implement policies of “cut first, save later”. Perhaps a reasonable person might have thought a more appropriate course of action would be to move very early to close some of the loopholes.

Earlier, I noticed that the Minister nodded his head in disagreement at the contention that Labour had done better in government than the present Government on closing tax loopholes. I would be interested to hear what he has to say on that, because a weight of evidence suggests that, despite the gibes of Government Members, we did better than the present Government in consistently closing tax loopholes.

This Government have clobbered families, who are losing help with child care, seeing their tax credits cut, and facing a further squeeze on living standards each year. Although the Chancellor apparently decided straight away that children, women, families, ordinary people on low incomes, and perhaps those who receive housing benefit needed to be targeted as part of the austerity plan, his “shock, horror” moment, when he realised that the wealthiest often pay next to nothing in tax—less than their cleaners—came only a month ago, which I find rather surprising. Ministers tell us that we are “all in this together”, but it was women and children first in terms of cuts, and millionaires and billionaires second.

Families on low and middle incomes have had a double whammy as a result of the disastrous failure of the Government's economic policies.

Why will the Minister close a tax avoidance mechanism for one set of tax dodgers, and yet continue to refuse to repeat the tax on bank bonuses that Labour has called for? In his Budget, the Chancellor said that he regarded tax evasion and aggressive tax avoidance as “morally repugnant”, and that view was repeated by the hon. Member for Dover earlier. I welcome any increase in resources and, indeed, additional staff to tackle tax evasion and tax avoidance at HMRC, but I suspect that Ministers are using smoke and mirrors to persuade the public that there has been a sea change in the Government's approach.

Will the Minister tell us what sums his Department and HMRC believe they might recover in closing some of the loopholes? If they can achieve any of the suggested figures—there have been various estimates, from £1.5 billion in *The Daily Telegraph* to in excess of £15 billion—can we expect that, whatever the figure is, the money will be used as a driver for economic growth and jobs? That is how Labour would have used money from the bank bonus tax. Or will the money go to pay the increasing debts and deficits caused by reckless austerity, declining growth and higher unemployment?

Both the Chancellor and the Chief Secretary to the Treasury have sought to steal headlines on closing tax loopholes, which, indeed, makes the rhetoric about us being “all in this together” all the more believable. However, it is a shame that the Chancellor gave the game away by cutting taxes for millionaires, while making millions of ordinary people pay more in tax. Behind the bluster, the coalition's record on tackling tax avoidance is open to question. We really need to see the evidence. As I suggested earlier, my hon. Friends and I do not believe that the present Government are doing as much as Labour did in government. Their actions do not match their tough rhetoric.

John Pugh: The hon. Gentleman mentioned that the Labour party consistently closed tax loopholes. I was on a number of Statutory Instrument Committees in which the right hon. Member for West Ham did that, and I pay tribute to him for doing so. However, that revealed the Government's weakness, in that they were always catching up with, and were always behind the pace of, the tax avoiders and tax evaders. Is it not important to consider the idea of a general anti-avoidance rule, which will have a more forward-looking effect than dealing with loopholes when they have been opened?

Grahame M. Morris: That is a very good suggestion. I am a Back Bencher, so I am not in a position to make policy, but that has merit. On the point about constantly chasing movable goalposts, I refer the hon. Member for Stockport—

John Pugh: Southport.

5.15 pm

Grahame M. Morris: I apologise. That is an easy mistake to make, just as it is easy to mistake Easington and Livingston.

[*Grahame M. Morris*]

I refer the hon. Member for Southport to the report produced by the Institute for Fiscal Studies, which my hon. Friend the Member for Newcastle upon Tyne North mentioned. The report shows that between 2002 and 2009, the Labour Government reduced tax avoidance by more than £12 billion, whereas Budget 2012, which we are debating, reduces tax avoidance by a mere £800 million. That reduction is less than Labour's average over that period. Indeed, the figure is less than in all but two of the Budgets in the past decade. My argument is that the Government's rhetoric does not match the facts of the case.

I want to say a little about international action, but I will try to be brief. We have heard that the only way to tackle tax avoidance is through co-ordinated action on tax havens. Our concern is that Ministers are cutting the resources of HMRC by £2 billion and cutting numbers by 10,000 over the spending period. I would like the Minister to spell out, as far as he is able, what action the Government are taking on tax havens. As our European allies are looking for solutions to tax havens such as Switzerland, I was drawn to reports in the paper that suggest that our own Government are seeking to protect the rights of UK citizens to conceal revenues, which I find incredible.

In 2009, the then Prime Minister, my right hon. Friend the Member for Kirkcaldy and Cowdenbeath (Mr Brown), took a leading role, alongside a supportive President Obama of the United States, in international discussions on toughening the rules on tax havens and other countries that offer secrecy and light regulation of foreign investments. Tax havens such as Switzerland and the Cayman Islands help investors to pay less tax at home. Indeed, my right hon. Friend said:

"We want the whole of the world to take action. That will mean action against regulatory and tax havens in parts of the world which have escaped the regulatory attention they need... The changes we make will have to apply to all jurisdictions around the world... I am more confident now having talked to world leaders that we are in a position to take action on this matter." When he was a Senator, President Obama supported the Stop Tax Haven Abuse Act in the United States. Where is our present Prime Minister on the issue of tax havens? What of the deals that HMRC was allowed to strike with Goldman Sachs and Vodafone?

Charlie Elphicke: I agree with a vast amount of what the hon. Gentleman says, but it strikes me that the Government entered into an information exchange agreement with Switzerland. Although he makes a powerful argument, I am not sure it will ring that strongly with the leader of his party, who seems to have employed Mr Rosenfeld as some kind of senior adviser. Mr Rosenfeld seems to have spent a suspicious amount of his life in Switzerland, and there are question marks about his tax affairs.

Grahame M. Morris: I cannot comment on that adviser, but I find it unacceptable. The deals that were struck with companies that derive their profits from trading activities in the United Kingdom, such as Vodafone, were of questionable value to the taxpayer. In his previous contribution, the hon. Gentleman mentioned how Amazon and a number of other companies avoid paying UK tax. If the UK Government are complicit and allow them to shelter and avoid their tax liability, that is reprehensible.

When individual businesses are going bankrupt from repaying such debts—we have all experienced such cases in our constituencies; cases in mine have convinced me—HMRC does not take such a lenient view. It ploughs on, taking the full amount back irrespective of the consequences for the business and employment in that company. It is a bit of a double standard. Once again, the rich and powerful and City financiers seem to be treated differently from ordinary people. People are rightly asking, "Is there one rule for them and one for me?"

We all want more to be done to tackle tax avoidance. I cannot understand why Government Members think they own the issue. I am a relatively new Member, having been part of the 2010 intake, but my understanding is that measures to close tax loopholes have been a standard feature of every Budget for numerous years—certainly for the past 13—so why the bluster and hyperbole about a proposal that would raise less than in previous Budgets?

Stephen Barclay: Given the hon. Gentleman's comments, particularly about Goldman Sachs, is he surprised that a Goldman Sachs director, Mr Mittal, is one of the Labour party's largest donors, having given many millions of pounds in recent years? Given the hon. Gentleman's condemnation of bankers in his speech, will he comment on that? Secondly, one issue that the Public Accounts Committee identified when we considered Vodafone and Goldman Sachs was that only one of the tax commissioners had detailed knowledge of tax. Most of them had no tax expertise. Does he regret the fact that the last Government's tax commissioners were so ill equipped for the job that they were performing?

Grahame M. Morris: Huge questions need to be asked about major companies and individuals involved in tax avoidance and tax evasion. I certainly do not condone such measures in any way, shape or form. If the hon. Gentleman wants me to excuse them, I certainly have no intention of doing so. I think that everybody should pay their fair share of tax. Perhaps there is a greater moral responsibility on the captains of industry, City financiers and rich individuals who benefited so much from the good times.

Graeme Morrice (Livingston) (Lab): I am most grateful to my hon. Friend for giving way. He is making a powerful case in support of the amendments, but does he not, like me, find it incredible that Government Members seem not to support our attempts to encourage the Chancellor to get a grip on the situation? For example, figures published by the Public and Commercial Services Union, which represents many staff members at HMRC, state that £25 billion annually is lost to tax avoidance, and a further £70 billion to tax evasion, by large companies and wealthy individuals. An additional £26 billion goes uncollected, giving an annual tax gap of more than £120 billion—more than three quarters of the annual deficit.

Grahame M. Morris: I am grateful for that intervention. I am interested to hear the Minister's estimate of how much tax is being lost to the Treasury, what proportion is recoverable by closing tax loopholes and whether the actions being taken to reduce staffing levels at HMRC are helping or hindering that process. In conclusion, I support the amendment.

Mr Gauke: It is a very great pleasure to serve under your chairmanship once again, Mr Bone. May I formally welcome the hon. Member for Newcastle upon Tyne North and congratulate her on her appointment? I look forward to debating with her for many hours in the weeks and months ahead.

Clause 9 makes changes to ensure that post-cessation trade or property relief cannot be exploited for tax avoidance purposes. At the end of last year, the Government became aware of avoidance activity intended to exploit post-cessation trade relief. Such avoidance relied on the creation of contrived costs that wealthy taxpayers could then claim against their income to reduce their tax liabilities. On 12 January, we announced that legislation would be introduced, with immediate effect, to deny post-cessation trade relief when the purpose, or one of the main purposes, of the taxpayer was to access relief through tax avoidance arrangements. In making those comments, I hope to have answered one of the questions raised by the hon. Lady. We knew about the loophole in December and closed it in January. As a consequence, that was enough to stop the scheme and no revenue was lost. Subsequently, further avoidance that sought to exploit property loss reliefs was disclosed. To prevent that avoidance migrating to post-cessation property relief, the restriction was extended to that relief with effect from 13 March 2012.

Catherine McKinnell: I thank the Minister for providing clarity on my first question. Will he confirm two additional points? Was that disclosure in any way related to the role of the disclosure of tax avoidance schemes rules? Is the Minister aware of any other arrangements that require such action, particularly retrospective action, to be taken?

Mr Gauke: On this occasion, HMRC did not become aware of this as a consequence of the disclosure of tax avoidance schemes, although there have been many occasions when it has been very helpful. I am sure that the hon. Lady will be jumping up and saying that the previous Government introduced that legislation. We accept fully that it is helpful, but on this occasion it was not relevant. I have nothing further to say on whether other schemes are available. As soon as we become aware of anything, we will act on it very quickly.

The changes made by clause 9 will introduce a targeted anti-avoidance rule that will prevent post-cessation reliefs being accessed where the claims arise from tax avoidance. That measure will only affect persons seeking to use tax avoidance schemes or arrangements and will not impact on other taxpayers. On the other question raised by the hon. Member for Newcastle upon Tyne North, only those entering into avoidance schemes will be caught. This will not have an impact on other taxpayers. There is a significant distinction between a person who incurs expenditure genuinely in connection with their business and one whose purpose is tax avoidance. We do not believe that innocent parties will be affected by the measure.

Amendment 7 seeks the publication of the report assessing HMRC's ability to deliver the anti-avoidance measures in this section. The Government are committed to tackling avoidance and evasion robustly. Such activities undermine the effectiveness of the tax system, distort competition and increase the burden of taxation on

those who do not avoid tax. On the specific wording in the amendment, which asks whether HMRC can deal with this particular matter, clause 9 stops tax avoidance at the outset and so reduces the need for HMRC to tackle this aggressive scheme through investigation and litigation. There is a broader debate that was had in the course of our discussions this afternoon about the Government's commitment and effectiveness in reducing tax avoidance. I would like to say a little on that subject.

5.30 pm

In the Budget 2011 the Government set out their strategic approach in the document "Tackling Tax Avoidance". That document also announced HMRC's anti-avoidance strategy, outlining HMRC activity to prevent, detect and counteract tax avoidance. The protection introduced by this clause is a targeted anti-avoidance rule and mirrors similar rules already on the statute book to prevent avoidance intended to exploit loss reliefs. HMRC has considerable experience of operating this type of rule and using it to challenge avoidance schemes.

The DOTAS rules, mentioned a moment ago, ensure that HMRC is able to find out about these schemes and the details of who has used them, so that early and effective challenges can be made. However, as I said, this particular case was not dependent on DOTAS. More generally, I remind the Committee that the Government have underlined their commitment to tackling tax compliance by investing £917 million in HMRC over the spending review period.

Let me set out what happened in the spending review process. The process began before the 2010 general election when, in the course of normal discussions between Opposition Front Benchers and senior civil servants, we raised with HMRC that we were interested in reinvesting savings that could be made in HMRC into tackling avoidance. We were keen to hear the arguments put forward by HMRC as to where reinvestment could receive a good return. Over the course of the summer of 2010 those discussions proved very useful and the package that was announced in the spending review in the autumn of 2010 included this reinvestment. Yes, there are savings to be made within HMRC. Yes, HMRC went through the process that all other Government Departments did. It was possible to identify savings constituting 25% of overall HMRC expenditure. HMRC is after all an organisation that processes a lot of data involving a large amount of clerical activity. Through use and investment in new technology it is possible to make substantial savings.

Rather than just pocket that 25%, 10% of the overall expenditure of HMRC was reinvested in this £917 million.

Catherine McKinnell: I understand the Minister's explanation for the supposed reinvestment, and I can understand why his Government may feel that is an investment as, in relative terms, it is more investment than the other parts of the public sector are receiving. However, will he accept that this is all a wriggle to cover up a significant cut to HMRC? It is so much so that the Prime Minister's statement was rendered by Channel 4 FactCheck as fiction.

Mr Gauke: Let me address all of those points. It might be helpful for the Committee if I put the treatment of HMRC into a little context. I would be the first to

[Mr Gauke]

say that one does not necessarily measure the effectiveness of an organisation by how much money is spent or the number of staff employed. However, it is worth pointing out that in the 2007 spending review, under the previous Government, of 22 Government Departments and devolved Administrations, HMRC's spending review settlement placed it at 21. Under the 2010 spending review, HMRC's settlement put it in the top half of the table. When HMRC was formed by the merger of the Inland Revenue and Customs and Excise, the number of staff was 92,000. Strictly speaking it was 96,000 but 4,000 were moved over to the then Border and Immigration Agency. Like for like it was 92,000. By the time we came in, that number had been reduced to 66,000.

Yes, the number will continue to fall, but the falls will be at a much reduced rate compared with previously. The number will be down to 56,000 over the spending review period. What is important about the staffing numbers is that we are actually seeing an increase in the number of people in compliance and enforcement. They will increase by 2,500, as staff move from some of the processing areas, such as personal tax, into compliance and enforcement. Tackling evasion and avoidance is the very area that we have been debating today, and HMRC is in the process of training up staff moving from one area to another.

Catherine McKinnell: I thank the Minister for giving way so generously. Is not that exactly our point and the reason that we are tabling this amendment today? HMRC is removing staff from personal taxation, and those are the very people who are now filling the complaints inboxes of our constituencies and, I am sure, of HMRC as well. Is HMRC as a whole able to deal with low-level and high-level tax avoidance and provide a decent service to the general taxpayer, so that other areas of avoidance and evasion do not start arising instead?

Mr Gauke: There are two issues there: performance on avoidance and evasion and customer service in terms of personal tax. On customer service, we recognise that contact centre performance needs to improve. It is worth pointing out that in 2010-11, only 48% of calls got through to HMRC contact centres compared with a substantially improved 74% in 2011-12, but there is still some way to go. In April in particular, HMRC had a number of difficulties, but that position has now been stabilised. Of course we are looking at ways in which we can improve the service of contact centres and ways of dealing with the post. It has been suggested that agents are unhappy with the performance, but that criticism was made by the Institute of Chartered Accountants of England and Wales.

The feedback that I have received in the last six months or so suggests that there has been some improvement on that, but that is not to say there is not further to go. Through the use of new technology, there is considerable scope for improving HMRC's service. For example, it is often wrongly said that end-of-year reconciliations have errors and blunders. At the end of a tax year, an inherent part of the pay-as-you-earn system is that accounts are reconciled and then there is a reconciliation that involves identifying either an underpayment or an overpayment. When we came in,

we inherited a huge backlog of about 17 million cases that had not been addressed. HMRC is on target to have cleared up that backlog by the end of this calendar year, which is quite an achievement and puts us in a very different position from the one that we inherited.

Sheila Gilmore: I listened with interest to what the Minister had to say about the redeployment and retraining of staff dealing with avoidance measures. Like me, he was present at a Westminster Hall debate this morning on child benefit. Does he agree that it is regrettable that complications have now been put into the administration of income tax through the child benefit proposals, which might mean that staff have to be redeployed to deal with self-assessment?

Mr Gauke: Very briefly, the alternative method of addressing this issue and ensuring that child benefit went to those who needed it the most, which is essentially to expand the tax credit system, would impose a bigger administrative burden. Secondly, we recognise that this involves additional costs for HMRC, and HMRC will receive additional financial support to enable it to administer the child benefit system, so I do not see that having a knock-on effect on HMRC's overall effectiveness.

Let us turn to the big issue in hand—avoidance. The £917 investment in HMRC should bring in around £7 billion a year in additional tax by the end of the spending review period in 2014-15. To put that in context, the amount of compliance yield in 2010-11 was about £13 billion or £14 billion, and that will be going up to about £20 billion or £21 billion. That is a substantial increase in compliance yield.

The hon. Member for Easington ran through some of the Budget announcements made by the previous Government and by this one, and it is right to say that every Budget tends to involve some announcement about closing loopholes. One must, however, look at the overall package, which is as much about administration as legislation.

The big issue in the previous Budget and Finance Bill—the big-ticket matter in terms of reducing tax avoidance—was the measures that we announced on disguised remuneration, which the Labour party voted against. Such measures are bringing in something like £750 million a year, yet the Opposition voted against them in this Committee last year.

Grahame M. Morris: Will the Minister clarify one point? Obviously, there are estimates for how much additional revenue will be brought in by measures to close tax loopholes, but does he agree that the international climate in Europe, and particularly in north America, has changed? Tax avoidance has become an international issue, and perhaps it is the right time to push ahead and forge alliances to prevent the Cayman Islands, or other tax havens, from opening up and being exempt from efforts to close those loopholes.

Mr Gauke: The hon. Gentleman is right to say that there is a strong belief in many countries that we need to address tax havens, and I point him towards the agreement that this country has entered into with Switzerland, which I am sure we will debate over the weeks ahead. That agreement is expected to recover

billions of pounds in unpaid tax, and to give the UK greater access to Swiss bank accounts—we heard earlier the point made by my hon. Friend the Member for Dover.

The global forum peer review process instigated by the G20 is making it increasingly difficult for offshore jurisdictions to act as unco-operative tax havens, and banking secrecy is no longer tolerated in the way that it was. The Government are determined to ensure that the UK plays a key role in that, including through international co-operation. I cannot list everything that we are doing in that area for reasons that the hon. Member for Easington will understand, but the UK Government continue to put pressure on tax havens and to make progress in that area.

Harriett Baldwin (West Worcestershire) (Con): I am grateful to the Minister for reminding us that the Labour party opposed the decision to eliminate disguised remuneration. Did it not also oppose the reduction in the pension contribution annual cap from £255,000 to £50,000?

Mr Gauke: I am always surprised by the things that the Labour party opposes, or does not oppose. In the House of Commons, Labour Members did not oppose the reduction in the top rate of income tax, yet the amendment they tabled would have meant that that top rate would be 40% not 45% next year—[*Interruption.*]

The Chair: Order. We have already had a Second Reading, and really ought to return to the clause.

5.45 pm

Mr Gauke: Thank you, Mr Bone.

On tax havens, may I add that there are new powers to exchange information? A new penalties regime has come into effect, whereby there can be a 200% penalty on tax relating to offshore evasion. There is also an offshore disclosure scheme to identify money undeclared in foreign accounts, and I think there is a consensus in the House and in the Committee that we address that.

On the tax avoidance measures and the £917 million reinvestment, in the first year of implementation—2011-12—HMRC is on track to raise the £2 billion in additional revenue from the reinvestment, which, over the spending review period, will bring in £15 billion in compliance yield. The rule introduced by clause 9 is part of HMRC's work to combat the abuse of loss reliefs, which itself is part and parcel of Revenue and Customs' wider anti-avoidance strategy. No benefit would be obtained from separate arrangements for reviewing HMRC's capability to deliver the measure, and therefore the amendment is unnecessary and I ask the hon. Member to withdraw it.

In conclusion, the Government are committed to tackling tax avoidance, and the measure clearly demonstrates that we will not hesitate to take rapid action to close down avoidance schemes as we become aware of them. I commend the clause to the Committee.

Catherine McKinnell: I will not keep the Committee much longer, because the debate on the clause has been wide-ranging and all-encompassing, but I want to make

a couple of points. HMRC faces many challenges. With the deficit, there is a significant responsibility to ensure that the tax intake recovered—that which is due—arrives in the Treasury's coffers with everyone paying their fair share and contributing to paying down the debt. It is vital that HMRC is sufficiently armed with the resources to do that, and that one part of it is not armed to the detriment of another. The solution needs to be considered in the round, and we are asking the Chancellor for a report on the measures because it is his responsibility to ensure that HMRC is fit for purpose and able to undertake its important duties. I appreciate the comments that the hon. Member for—

Stephen Barclay: North East Cambridgeshire.

Catherine McKinnell: Apologies. I appreciate the comments that the hon. Gentleman made about the important auditing work of the Public Accounts Committee and the National Audit Office, but we are keen to see the Chancellor take responsibility for this matter, for which he is directly responsible, through his Department's policies—enacted by the Bill.

We have covered a number of topics, but I want to put on record that there is much concern among various bodies, in particular about the child benefit changes and the challenge that that will pose to the HMRC, but also about the changes to universal credit, which will prove to be a significant administrative burden for Revenue and Customs. There is a warning there: we need to ensure that that does not impinge on any ability of the HMRC to clamp down, as necessary, on avoidance.

Finally, we have raised the issue of moral indignation towards tax avoidance. It is right that we feel it and that members of the public feel it, but moral indignation will not bring tax receipts into the Treasury's coffers. Legislation that is fit for purpose will, however, and we have a duty to ensure that that happens. The Chancellor of the Exchequer has a duty to ensure that such legislation is in place, which is why I urge hon. Members to support the amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 10, Noes 15.

Division No. 7]

AYES

Blenkinsop, Tom	Mann, John
Gilmore, Sheila	Mearns, Ian
Jamieson, Cathy	Morrice, Graeme (<i>Livingston</i>)
McKenzie, Mr Iain	Morris, Grahame M. (<i>Easington</i>)
McKinnell, Catherine	Reeves, Rachel

NOES

Baldwin, Harriett	Kirby, Simon
Barclay, Stephen	Mills, Nigel
Burley, Mr Aidan	Pugh, John
Elphicke, Charlie	Rees-Mogg, Jacob
Gauke, Mr David	Smith, Miss Chloe
Gyimah, Mr Sam	Syms, Mr Robert
Hands, Greg	Williamson, Gavin
Harrington, Richard	

Question accordingly negatived.

Clause 9 ordered to stand part of the Bill.

Clause 10

PROPERTY LOSS RELIEF AGAINST GENERAL INCOME: TAX-GENERATED AGRICULTURAL EXPENSES

Catherine McKinnell: I beg to move amendment 33, in clause 10, page 6, line 43, at end insert—

‘(5A) The Chancellor of the Exchequer shall review how the targeted anti-avoidance measure contained in this section will interact with the proposed General Anti-Abuse Rule in Finance Bill 2013, and lay a report of his review in the House of Commons Library.’

The Chair: With this it will be convenient to discuss clause stand part.

Catherine McKinnell: As with clause 9, the Opposition welcome the targeted anti-avoidance rule that clause 10 legislates for. Property loss relief is important, and the Government were right to close such schemes, which were set up to create paper losses and contrived transactions as a way of enabling wealthy individuals to falsely claim relief. It is of course worth mentioning that the Revenue was made aware of such schemes only because of the disclosure rules introduced in 2004 under the Labour Government, and I thank the Minister for recognising the value of those rules and their use in the battle against avoidance.

There was much debate at the time about whether to introduce a general anti-avoidance rule of the kind that the Government now intend to legislate for. It was interesting to read the evidence given on the matter to the Treasury Committee in 2004 by John Whiting, then of PricewaterhouseCoopers, now, of course, director of the Office of Tax Simplification. He said that the GAAR is

“clumsy and it does not fit very well with the UK’s way of doing tax law...The pre-registration, I think, is the way forward. One can quite understand the Chancellor basically saying, ‘If that is not working, then we might re-examine the GAAR’, but the pre-registration, the notification, the disclosure, whatever term you wish to use, seems a sensible way forward”.

Our view at the time was similar: keep the door open for the GAAR to be introduced in the future, and implement a disclosure regime. In Budget 2004, we announced that “promoters who market schemes and arrangements that meet certain criteria for direct taxes will be required to disclose details of these schemes to the Inland Revenue; and businesses with an annual turnover of £600,000 or more using VAT avoidance schemes that appear on a statutory list, and businesses with an annual turnover of £10 million or more using VAT arrangements that meet certain criteria, will be required to notify HM Customs and Excise.”

In December of the same year, the Treasury Committee took evidence on the effectiveness of the disclosure regime and concluded that the system that we had introduced was working well. It reported:

“We note and welcome the evidence that the new tax avoidance disclosure regime put in place at the time of the 2004 Budget is working well and is having an effect both in terms of allowing the revenue departments to close off avoidance schemes earlier than was the case previously and in having a measure of disincentive effect on the tax avoidance industry. Without wishing to challenge the legitimate right of individuals and businesses to manage their tax affairs in the most effective way for their purposes, we regard it as an equally legitimate objective for the government to seek to protect the tax revenue against inappropriate avoidance schemes.”

It is widely considered and agreed that the disclosure of tax avoidance scheme has been effective. Since 2004, DOTAS has been extended to include all of income tax, corporation tax and capital gains tax and then further to cover national insurance contributions. Last year, the coalition Government extended it to cover inheritance tax, which was an entirely welcome addition, although I would add that it has so far led to just one additional disclosure. Those extensions are testament to its effectiveness. HMRC statistics for the number of schemes captured by DOTAS shows that it was especially effective in the first two years, but, for a number of reasons, the number of schemes that have been disclosed has fallen over time. For example, there were 131 direct tax disclosures in the last financial year, compared with 503 during the first year of the scheme. Evidence, however, as to the scheme’s overall effectiveness is favourable. Last year, it was revealed that the disclosure scheme had blocked £12.5 billion of tax avoidance and, in the words of the HMRC permanent secretary Dave Hartnett, had become a “crucial tool for dealing with avoidance”.

Throughout our time in government, in addition to DOTAS, we kept the possibility of introducing a general anti-avoidance rule under review. We accept the Government’s position that there is a renewed case for a general anti-avoidance rule to be introduced in addition to the disclosure schemes that we introduced, and we look forward to receiving more detail when the GAAR consultation document is produced later this year. We have some concerns, however, that the final report, produced by Graham Aaronson, QC, which the Government are using as the basis for their consultation document, may not go far enough. Once again, it may not match the Government’s somewhat hyperbolic rhetoric on tackling avoidance, not least that from the Prime Minister, who has berated “fancy corporate lawyers”. That is the reason for our amendment, which asks whether the GAAR will be tough enough.

Aaronson’s report addresses its own weaknesses. On page 25, Aaronson acknowledges:

“Although clearly intended to apply only to egregious, or very aggressive, tax avoidance schemes, it was thought likely that HMRC may seek to apply the GAAR more widely. To restate views already noted above, while there was unanimous agreement that a GAAR would be beneficial if it eliminated egregious tax planning schemes, there was substantial concern that it may in fact be invoked by HMRC and applied by the Courts against a wider range of tax planning.”

The GAAR, therefore, is to apply only to the most egregious schemes. Would the provisions under clause 10 be captured by the GAAR? Is it egregious enough? We know that the Treasury has called the planned abuse of the property loss relief “contrived and aggressive”, but is that less than “egregious”?

6 pm

We argue that a sufficiently robust GAAR would mean that clause 10 could be repealed. However, under the current recommendations we are not convinced that it would be sufficiently robust. Can the Minister confirm that clause 10 would not be repealed under the current recommendations, because property taxes are excluded from the suggested GAAR? Will the Minister also confirm that the suggested GAAR will only bite for a small proportion of “highly artificial and abusive” arrangements and will only challenge “the most egregious tax avoidance schemes”?

Will he tell us why it is likely that there will be no special rates of interest or penalties on tax recovered by use of the GAAR, as there are in every other country in which it is adopted?

The Chartered Institute of Taxation has signalled its concern about the recommendations of the Aaronson report, particularly about the uncertainty that the GAAR might create, which it fears could last for years and could damage the image of the UK internationally.

We have heard that this is the longest Finance Bill on record and it adds to an already complex tax code. How does the Minister intend to minimise the uncertainty that will be created by the introduction of a GAAR and ensure that the tax code is not complicated further?

The CIT is also concerned that the use of the GAAR risks giving too much discretionary power to HMRC. What assurances can the Minister provide to show that this will not be so? That would be of special concern, given that the cuts to HMRC that we discussed in the debate on clause 9 will lead to a staffing endowment 10,000 light being asked to make crucial, challenging calls on such matters.

The Government like to talk tough on tax avoidance and they will inevitably trumpet the GAAR as a major step forward. No doubt we will hear especially loud cheers from the yellow—or rather, slightly less blue—part of the coalition. The Government need to remember that, rhetoric and internal coalition wrangling aside, the final details included in the general anti-avoidance rule matter greatly and will have wide-ranging implications for the UK tax bill.

With our amendment we urge the Government to consider the details closely and to ask whether the current recommendations go far enough, and I urge Committee members to support it.

Nigel Mills (Amber Valley) (Con): It is a pleasure to serve under your chairmanship, Mr Bone. I have been tempted into a debate on a general abuse law, although we have not seen the Government's proposals. I am not tempted because I have sympathy for egregious, aggressive tax avoidance: it is right that that the Government take every sensible action that they can to tackle that and stop it being effective. Like the shadow Minister, I support the disclosure rules, given how effective they have been.

I recall that the previous Government's consultation on introducing a general anti-avoidance rule ran into the ground when they struggled to get a draft that did not cause as many problems as it tried to solve. When the Government consider their consultation, they have to remember that, with GAARs, they are saying, "Okay, the law might say this, but that is not quite what we wanted it to say, so we're going to allow the Revenue to pretend it says something different, so we can get the tax treatment that we always wanted from the taxpayer, not the one that we think the law probably produced." That is quite a stretch from normal law making in this country, where Parliament passes laws, taxpayers abide by them and HMRC and the courts enforce them. In this case, we are saying to HMRC, "If you can't enforce the law as Parliament drafts it, rewrite it retrospectively yourselves and apply what you think it ought to have said."

We have to proceed with caution, to ensure that we do not wander into the trap of the Revenue becoming almost a baseball bat-wielding, threatening organisation that says, "We're a bit short of money this month. We're going to use this as a tool to get some more money out of you." I know that it will not use baseball bats and that the vast majority of taxpayers will not be anywhere near such a threat, but we should fear creating a tax system in which it appears we are not following the rule of law, but are making it up as we go along. As parliamentarians, we ought to be concerned about that principle. If the Home Secretary said in the Chamber later, "I'm a bit tired of producing all these criminal justice laws. People keep getting round them and they're hard to enforce. Let's just scrap them and say the police can determine what's allowed and what's not, and they can do it retrospectively," I think all hon. Members would say that that is a long way beyond the pale. Our right as individuals is to know what the law is and to be able to choose whether we abide by it: if we do not do so, we get clobbered, but if we do, we should not be clobbered. There is merit in getting the consultation right and finding a way to ensure that rules catch what needs to be caught—I agree with that—without creating a fear that the UK is wandering into a tax system where we abandon the rule of law and let the tax inspectors do what they want.

I agree with all Mr Aaronson's concerns. The rules should catch only the most egregious schemes. I am a little concerned by the shadow Minister's idea that schemes that are illegal under the law as it stands attract one level of penalties and interest, but schemes that are not illegal under the law as it stands, but are caught by a general anti-abuse rule, somehow get a higher penalty. That seems a bizarre situation, where legal things get a harder clobbering than things that are clearly illegal.

Catherine McKinnell: I was merely asking the Minister what the Treasury's intention might be in that regard, pointing out that that is the case internationally and querying whether that is something that the Government would consider.

Nigel Mills: I am grateful for that clarification. Perhaps I was slightly twisting what the hon. Lady meant.

Part of the amendment is a little tempting. One of the great attractions of a general anti-abuse rule is that we would not need to have all these complicated targeted anti-abuse rules; we could take out huge swathes of complex legislation and just rely on a general anti-abuse rule. I know that Mr Aaronson raised that as an idea in his submission. I think he suggested that we might need to wait perhaps five years and see how the GAAR was working before we risked repealing that swathe of anti-abuse rules. The Minister could usefully clarify that for us. Does he anticipate that, on introducing a GAAR, we could repeal a load of legislation; or even that, if we introduced a GAAR, we would not need to keep introducing more swathes of complex anti-abuse rules every year? Would Government policy be to rely on the GAAR in that situation, or would we have to have tandem arrangements, with both things running at the same time?

I look forward to the consultation. I can see the attraction of a GAAR, but we need to get it right so that we do not risk innocent, ordinary taxpayers being

[*Nigel Mills*]

clobbered by a tax inspector when they have not actually broken any laws. We do not want to make our tax regime look even less friendly to international investors. I have suggested to the Minister before that one way of making a GAAR less problematic is to have a de minimis threshold—that the tax at stake has to be at a certain level before the rule can be invoked. In that way we can catch the egregious schemes that really do cause a risk to the Exchequer, but leave the vast majority of taxpayers not having to worry that they will face some strange inspector somewhere spotting the rule and trying to use it where it really should not be used. Perhaps the Minister will comment on that idea.

John Pugh: In some respects, the amendment asks for the impossible, because it says

“The Chancellor of the Exchequer shall review how the targeted anti-avoidance measure... will interact with the proposed General Anti-Abuse Rule in Finance Bill 2013”.

Well, the Finance Bill 2013 has not been written, as far as I know, so that is, if not an impossible task, certainly a pretty difficult one.

Even more fun than the Finance Bill is sitting on Committees scrutinising statutory instruments dealing with tax avoidance loopholes. In the previous Parliament, I was a veteran of various SIs of an extraordinary specialist nature dealing with this kind of stuff. The Minister in that case was the right hon. Member for East Ham (Stephen Timms). I think I referred to him earlier as the Member for West Ham, but that is a football team. He spent a lot of his time trying to mop up various loopholes, particularly with regard to double taxation and double taxation treaties. Anyone who has served on such a Committee will know that they are treaties of the most Byzantine complexity, really understood only by two people in the Treasury, who are never let out in the sunlight. They are rather like the Schleswig-Holstein question; they are simply not understood at all well.

Labour’s approach in previous Parliaments of having a pre-disclosure scheme seemed to be a breath of fresh air, because it cut through a lot of the complexity, but it did not stop the loopholes. As the hon. Member for Newcastle upon Tyne North has said, in every Finance Bill there were more tax loopholes to be dealt with as schemes were altered by a further 5%, or the odd word here and there, to deflect the attack from the anti-avoidance rule or legislator. At that time, the Labour Government were sceptical about a general anti-avoidance rule, so it is not quite fair of the hon. Lady to reproach the present Government in this case for not going far enough, when her party’s Government did not go very far at all.

There is a consensus that if a GAAR is to be worth introducing, it needs to be strong and effective. However, as the hon. Member for Amber Valley said, it also needs to be clear. The general critique of the GAAR is that it sweeps a lot up, but it does not lead to tax certainty, and people planning tax affairs and businesses need a degree of tax certainty. Equally, if we go for tax certainty—absolute precision on every scheme—we get the other problem: tax complexity. Therefore we need a GAAR that makes tax law clearer, although to some extent there appears to be a trade-off between complexity and clarity.

Fortunately, as the hon. Lady said, we do not need to reinvent the wheel, because a GAAR is not an unknown beast worldwide. There are quite good examples in places such as Australia, where a GAAR has been in place for quite some time. It is encouraging that the Government are taking steps in that direction and are proceeding in the proper way—the evidenced way. The encouraging thing about the Aaronson report, because I do not think it was necessarily the direction that Ministers thought they would go in, is that the evidence seemed to pile up for there being real merit in a GAAR. However, there is little merit in trying to anticipate how a GAAR—in whatever form the Government introduce it in 2013—will interact with the current legislation, so there is no reason to support the amendment.

Jacob Rees-Mogg (North East Somerset) (Con): I agree very much with my hon. Friend the Member for Amber Valley, who put the case extremely well. Fundamentally, it comes down to the rule of law. The taxpayer has the right to believe that the law is the black letter of the law as written by Parliament, and not what some people might have thought it would be convenient if it were, which is fundamentally unjust. We have all this talk of avoidance, but all people who are avoiding tax are doing is paying the tax that Parliament has laid down, and not any more. That is different from tax evasion, when people are not paying the amount of tax that Parliament has said they should pay and they are lying about their tax affairs to the authorities.

If this House is not competent enough to pass tax law that collects the amount of revenue that we wish to collect, it is a matter for us to revise the law so that taxpayers know what they are expected to pay and so that the collectors of taxes can enforce the law as it is. I so agree with what my hon. Friend: if the Home Secretary were to stand up and say, “We’re going to redefine a whole load of laws—we’ll not even bother with any laws; we’re just going to say that we don’t like the way members of the public are behaving and therefore we will imprison them. Oh, and by the way, we will decide what the penalties will be after we have decided that they have committed an offence, which we haven’t yet created,” we would be so outraged at the injustice of that and about the way that it undermined the principle of the rule of law that no Member of this House would think of supporting it. When it comes to tax avoidance, though, we are talking about rich people, are we not? We are talking about rich people who have a lot of money that the Government want to get a bit of. So we think that those people should not be protected by the rule of law in the same way that all the rest of us are.

The Government, when they legislate next year on this issue, must maintain those fundamental principles on which our nation is based when they attack a problem that may exist.

Stephen Barclay: My hon. Friend is making a point with his usual eloquence. Will he defend not just rich people but also many BBC journalists, who recently have been profiting from personal service companies as a way of managing their tax exposure? Also, does he accept a wider point that directors of companies are under a duty to their shareholders to manage the tax liability of their companies, so the law compels them to manage their tax affairs in the most expeditious way?

Jacob Rees-Mogg: I am grateful to my hon. Friend for that. Now that the election is safely over, and having kept very quiet during it, I will even defend the erstwhile Mayor of London, Ken Livingstone, by saying that he had no obligation to pay more tax than was required by the law, nor to arrange his affairs to increase the amount of tax that he had to pay; and the fact that he decided to have a service company when—perfectly legitimately—he had a number of sources of revenue was something that anybody in his position would have been likely to do. I will also defend—rarely, unusually, uncharacteristically—the BBC. If people who are working for the BBC are genuinely freelancers—there is a lot of measures to catch them if they are not, such as IR35—they should not be pilloried.

John Mann (Bassetlaw) (Lab): What on earth was the Chancellor talking about in the Budget then, when he said that tax avoidance—not evasion, but avoidance—is “morally repugnant”?

Jacob Rees-Mogg: I think, in that instance, the Chancellor was completely wrong. [*Interruption.*] I am saved by the bell.

The Chair: Order. I will suspend the Committee for 15 minutes, but I gather that there may be more than one Division, in which case we will resume 12 minutes after the last one begins.

6.15 pm

Sitting suspended for Divisions in the House.

6.41 pm

The Chair: Order. We will resume with Mr Jacob Rees-Mogg. I think he was saying something about the Chancellor of the Exchequer.

Jacob Rees-Mogg: Thank you, Mr Bone. I was saying what a wonderful man the Chancellor is and how lucky we are that the economy is under his safe guidance. I have one area of disagreement with him, over whether tax avoidance is the same as tax evasion, or morally repugnant. That is not a view I would accept.

I was answering various questions. One is that businesses do have a legal obligation to provide a return for their shareholders. They have a fiduciary duty and they cannot tear up that fiduciary duty and pretend it might be fun to give more to the Chancellor of the Exchequer. That would catch them.

Grahame M. Morris: This is a fascinating exposition and defence of the 1%, but does the hon. Gentleman recognise that his views are completely out of step with those of the ordinary members of the public? It may be the norm in the exclusive gentlemen’s clubs of London or North East Somerset, but in the working men’s clubs of Easington, it is morally repugnant for people to avoid paying their fair share of tax.

Jacob Rees-Mogg: I strongly dispute this term “the ordinary public”. There is no such thing. There is no voter in North East Somerset who is in any way ordinary. It may be true in other parts of the country, but I can

only speak for the constituents I know. In North East Somerset they are all extraordinary in their own individual way. They also benefit from the rule of law, and they know that when they put money into an ISA or a pension fund that that is tax avoidance approved by the Government. If we have a general anti-avoidance law, people may suddenly wake up after a change of Government and find that the new Government say, “We do not like that particular type of avoidance and therefore you are caught. We have changed the rules.” We cannot say it just applies to 1%. Although I used them to highlight the problem earlier, and they are easy to attack, when one defends the rule of law one defends it for everybody: the 99% and the 1%.

Richard Harrington (Watford) (Con): As this is the first time I have spoken today, I would like to put on record how honoured I am to serve under your chairmanship, Mr Bone. I am sorry to interrupt my hon. Friend in the middle of such an excellent speech, even though I disagree with him about the general avoidance legislation. However, I wish to ask whether he is perplexed, as I am, that the hon. Member for Easington is criticising a measure that defends the Exchequer from the very multinationals, millionaires and rich people with the best tax advice that money can buy of whom he normally speaks in a very disparaging way? I really cannot understand why he should protect such people.

Jacob Rees-Mogg: I am grateful for that point. The hon. Member for Easington, as we have already discovered during these debates, is a fine orator, so I can leave him to defend himself later, rather than rush to the barricades on his behalf.

Many parts of the Bill do in fact create avoidance. We will come to clause 13 about the Champions League final of 2013. That would allow avoidance for association footballers. If there were a general anti-avoidance rule, would one suddenly overrule a specific piece of avoidance of which the Government are in favour? As we discovered earlier, the Chancellor seems to prefer going to football matches than to the test match.

6.45 pm

Ian Mearns (Gateshead) (Lab): Just for the hon. Gentleman’s information, I enjoy both cricket and football. He mentioned the Champions League final, but it is not just about multi-millionaire footballers. It is about bringing to London an event that brings a huge amount of money to businesses such as hotels, restaurants, bars and so on.

Jacob Rees-Mogg: This is all terrific, and I am well in favour of it, but the Government cannot have it both ways. They cannot be all in favour of avoidance for specific people whom they like and believe are good, and say that if they use these schemes to avoid tax, they will be caught with an anti-avoidance rule. That is completely improper, and ultimately the choice is between defending the bureaucratic convenience of the Treasury, and the Inland Revenue, or HMRC, and offending countless millions of individuals who, when they send in their tax return, want to be certain that what they have done is in accordance with the law.

[*Jacob Rees-Mogg*]

Speaking for myself, I certainly want to be confident that when I sign that tax return it is, to the best of my ability, within the law of the land without having some inspector coming to me six months later and saying that HMRC has subsequently decided that what was thought to be the law of the land then, and was the law as written by Parliament, is wrong. I fundamentally dispute that, and if the Government go ahead with imposing penalties on people who in all honesty fill out their tax returns using the law as written, I will certainly oppose it. I think many true Conservatives will oppose it, as indeed will many Opposition Members. The rule of law is one of the most precious things that this Parliament protects. If we do not protect it, the law will become arbitrary, and we will put the power of the bureaucrat above the rights of the individual. I would always put the individual first.

Mr Gauke: Clause 10 makes changes to ensure that losses from a property business with a relevant agricultural connection cannot be exploited for tax avoidance purposes. In March, the Government became aware of avoidance activity intended to exploit property loss relief. That avoidance relied on creating contrived losses which wealthy taxpayers would have claimed against their income to reduce or eliminate their tax liabilities. An announcement was made on 13 March that legislation would be introduced with immediate effect to deny property loss relief when agricultural expenses arise from tax avoidance. The changes being made by clause 10 will introduce a targeted anti-avoidance rule that will prevent property loss relief for agricultural expenses being accessed when the claims arise from tax avoidance. This measure will affect only persons seeking to use tax avoidance schemes or arrangements, and will not impact on other taxpayers.

Much of the debate this afternoon has focused on amendment 33 and its inter-relationship with the general anti-abuse rule. It calls for a report on how the targeted anti-avoidance rule in this measure will interact with the proposed general anti-abuse rule. I have already explained that this measure targets the very specific avoidance activity of the exploitation of property loss relief. A GAAR is, by its very nature, more general. Further to Graham Aaronson's independent study, the Chancellor announced in the Budget that the Government would consult on a GAAR targeted at artificial and abusive tax avoidance schemes with a view to legislation in the 2013 Finance Bill. During our debate this afternoon, a number of aspects relating to the GAAR were raised.

First, the hon. Member for Newcastle upon Tyne North focused on DOTAS—disclosure of tax avoidance schemes—and the inter-relationship with GAARs. She probed us on whether we need a GAAR, and asked whether DOTAS was becoming less effective, given that there have been fewer disclosures than previously. I do not believe that DOTAS has become less effective. It identifies new and novel avoidance schemes, so over time we would expect fewer disclosures as schemes are closed down. There has also been a behavioural effect, with less aggressive avoidance behaviour now than there was five years ago, for example. Indeed, this Government have made DOTAS more effective by widening it to inheritance tax, as it applies to trusts, and extending it to stamp duty land tax. DOTAS has proved effective in

the early detection of avoidance, but has not on its own managed to deter those willing to risk entering into abusive avoidance arrangements. The general anti-avoidance rule will add to the avoidance armoury by providing a deterrent against those engaged in avoidance while improving HMRC's ability to tackle them successfully and to secure the right amount of tax.

Let me address the big issue raised by my hon. Friends the Members for Amber Valley and for North East Somerset, who argued that there is a risk of uncertainty being created by a general anti-abuse rule, that there is a danger that the law as created by Parliament could be overridden by a device available to the Exchequer and that there will be those with baseball bats, metaphorically at least, coming in and taking money from taxpayers who had clearly complied with the letter of the law. The point about uncertainty was also touched on by the hon. Member for Newcastle upon Tyne North.

A balance needs to be struck. No one would argue that a Government ought to have the power to override clear tax reliefs identified by Parliament, for example relating to the clause on champions league footballers, or be able to overturn completely the previous understanding of the law. It is important for the UK tax system to be competitive. Uncertainty within a tax system creates difficulties and damages competitiveness, and for that reason the previous Government, when they looked at the introduction of a general anti-avoidance rule, declined to do so. The sense was that it would create uncertainty and damage the UK's competitiveness, so they shied away from going down that route.

We decided to look at the issue again and asked Graham Aaronson to form a committee to examine it. The committee was distinguished, made up of judges, academics, business representatives and Graham Aaronson himself, who is a distinguished QC. The committee came back not with a general, broad anti-avoidance rule, which it considered would damage the UK's competitiveness because it created uncertainty, but with something that was focused on the more egregious opportunities. Some of my parliamentary colleagues are sceptical, but there is an area in which tax behaviour is so artificial, contrived and clearly contrary to the intention of Parliament that an additional tool in the armoury of HMRC is legitimate. That is why we have proceeded with the Aaronson proposal.

John Mann: There seems to be some huge confusion in the Government ranks. In the context of the clause, can the Minister confirm his position on what the Chancellor said about tax avoidance, not evasion, which was condemned by the hon. Member for North East Somerset, and indeed on the Prime Minister's condemnation of the tax avoidance of Mr Ken Livingstone when in fact it was entirely within the law? Which side is the Minister on in those arguments and how is that defined in the clause?

Mr Gauke: The Government will proceed with the recommendations made by Graham Aaronson and consult on them shortly. I am sure that the hon. Member for Bassetlaw, who is a philosophical sort of chap, will be aware that there is a distinction between what should be legal and what is morally right; the two do not necessarily run together.

Stephen Barclay: Will the Minister give way?

Mr Gauke: Let me just finish this point. It is reasonable in the current circumstances for us to pursue the recommendation made by the Aaronson committee to have a general anti-abuse rule that strikes the right balance between providing certainty to taxpayers, so that they know where they stand, and addressing the most aggressive, artificial and contrived behaviour by taxpayers that result in their not paying their fair share of tax.

Stephen Barclay: Does the correct distinction that I understand the Minister is drawing go to the heart of the artificiality of schemes? The law, in certain areas, is being stretched through artificial schemes, and it is to those that the Government are turning their attention.

Mr Gauke: My hon. Friend puts the point well. That is the essence of what we are looking at.

John Mann: Will the Minister give way again?

Mr Gauke: I will give way shortly. We will soon be consulting on the proposals for a general anti-abuse rule. As my hon. Friend the Member for Southport pointed out, the amendment is somewhat previous because it is difficult to make an assessment at this point, given that we are about to consult on it.

My hon. Friend the Member for North East Cambridgeshire is right about artificial and contrived behaviour. It is clearly not consistent with Parliament's intention and is the focus of the Aaronson proposal.

John Mann: I thank the Minister for generously giving way again. I have not studied philosophy at any great length, but my highest ever results were in a paper in logic. Logic would suggest that what the Chancellor stated in the Budget on what he has done regarding tax avoidance has nothing whatever to do with what the Minister is highlighting. When members of the Committee are weighing up whether to support the amendment, that is rather fundamental. Where are the Government going on the question of morally repugnant tax avoidance? Are we talking about something that is not morally repugnant tax avoidance and being highly precise in trying to establish a clearer definition of evasion, or are we talking about avoidance? The Minister needs to clarify that before we vote on the amendment.

Mr Gauke: The Government want to reduce tax avoidance and there are a number of means by which we are doing that. I have talked about the additional investment in HMRC's capacity to deal with tax avoidance. We are proposing measures such as the one in clause 10, which deals with avoidance. We are also proceeding with a general anti-abuse rule. All those steps are being taken to reduce avoidance, so that people pay the tax that is due and that this Parliament intends them to pay. We have been very active on that front.

Before I conclude, I will address a couple of the points made in the debate. If we introduce a general anti-abuse rule, will there be an opportunity to remove large chunks of legislation? We have to be cautious.

We expect the proposed GAAR to be effective in tackling and deterring artificial abuse of tax avoidance schemes, but we will still need to retain existing targeted anti-avoidance provisions and to amend other legislation that provides unintended tax planning opportunities that are outside the scope of the general anti-avoidance rule. It is too early to say whether the proposed GAAR would catch the avoidance that we are discussing under clause 10. In the meantime, targeted anti-avoidance rules for post-cessation relief are needed to protect the Exchequer.

We will set out in the consultation document our proposals with regard to the GAAR, including details of how the GAAR will interact with existing legislation. I am sure that the Committee will read it with interest. It would be premature of me to go into the detail of those proposals here, but I stress the importance of taking action now through clause 10 to prevent the specific avoidance activity, ensuring that there is an appropriate level of protection for the Exchequer.

The Government are committed to tackling tax avoidance, and this measure clearly demonstrates that we will not hesitate to take rapid action to close down avoidance schemes as we become aware of them.

7 pm

Catherine McKinnell: At the conclusion of this debate, we are probably left with more questions than answers. It is for that reason that we are asking for a report to be produced and laid in the House of Commons, which is the purpose of our amendment. I urge hon. Members who want some answers to the questions that they have raised in this debate to support our amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 11, Noes 15.

Division No. 8]

AYES

Blenkinsop, Tom	Mann, John
Gilmore, Sheila	Mearns, Ian
Jamieson, Cathy	Morrice, Graeme (<i>Livingston</i>)
Lavery, Ian	Morris, Grahame M. (<i>Easington</i>)
McKenzie, Mr Iain	Reeves, Rachel
McKinnell, Catherine	

NOES

Baldwin, Harriett	Mills, Nigel
Barclay, Stephen	Pugh, John
Elphicke, Charlie	Rees-Mogg, Jacob
Gauke, Mr David	Smith, Miss Chloe
Gyimah, Mr Sam	Syms, Mr Robert
Hands, Greg	Williams, Stephen
Harrington, Richard	Williamson, Gavin
Kirby, Simon	

Question accordingly negated.

Clause 10 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —(Greg Hands.)

7.3 pm

Adjourned till Thursday 24 May at Nine o'clock.

