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Tax and Theology

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There is no morality in a tax.
—Lord Templeman, 1992[1]

Morality matters and has a higher part to play in tax.
—Deputy Chairman, Inland Revenue, 2003[2]

Tax planning is increasingly being regarded not as a legal issue but a moral one, with campaigners treating tax as part of the wider debate on "corporate social responsibility."

This article looks at the modern tax debate in the light of Christian theology and biblical teaching, first as to how to vote on tax issues and second how to react to existing tax law. It suggests two basic principles for a theology of taxation:

1. Our charitable duty to our neighbor is personal and cannot be satisfied through the taxation system. There is therefore no general Christian duty to vote for tax-funded welfare.
2. Our Christian obligation toward taxes is to obey the law, as interpreted by those who have been put in authority to do so; there can therefore be no category of legal but immoral tax evasion.

Tax returns have, in past decades, generally been regarded as a mere matter of law and numbers, "the application of the black letter of law to situations, arrangements and transactions which are, themselves, rooted in law."[3] Attempts to reduce one's tax liability were therefore either legal or illegal, and (other than a few fees to advisers) there was little more to the question than that. However, in recent years, morality has started to creep into the debate, and in the business tax sphere it is claimed that "the boundaries of corporate responsibility debates are extending to embrace tax matters,"[4] dragging tax clearly into the debate on modern business morality.

There are two areas in which morality is brought into the tax debate; first the design of the tax system itself, primarily the choice of which taxes to impose and the rates at which to set them; and second our proper attitude to tax law once imposed, particularly the question of whether, and if so to what extent, it is permissible to attempt to minimize our tax payments.

As Christians, morality must be rooted in the desire to perform the will of God, and we must seek a theological basis for any "morality of tax." The purpose of this article is therefore to examine Christian doctrine and teaching and attempt to apply it to the modern world of taxation.[5] This must be done carefully; too often in such discussions there is an unexamined assumption that taxation, or the state spending that it supports, is a moral good in itself — "once the inextricable link between tax and, for example, education, health care, social welfare and defense is made, morality—the ethics or sense of right and wrong by which each of us operates—comes rapidly into play."[6] The specific quotation may be from an interested party but the sentiment is frequently encountered.[7]

Taxation as a Moral Good?

Let us first address the more political question (and the one that is most readily perceived by the general public)—how our Christianity should influence our say over the design of the tax system.

If we start by looking for direct guidance in the Bible, we find that it has only a few scattered mentions of tax. There are poll taxes, such as that in Exodus where the people of Israel make a payment to God for their delivery from Egypt under which "the rich man is not to pay more, nor the poor man less, than half a shekel."[8] There also appear to have been proportionate taxes,[9] notably by Jehoiakim to meet a forced payment to Egypt, which was levied "from each according to his means,"[10] and even possibly progressive taxes that seem to fall only on the wealthy ("the men of rank").[11] This variety makes it difficult to suggest that any particular type of tax has biblical support, particularly as the taxes are generally merely described as facts of life rather than praised.[12]

Although there is generally no specific comment on whether or not these taxes gain God's approval, there is some criticism of tax in the Bible. "We have had to mortgage our fields and our vineyards to pay the king's tax,"[13] complain the Israelites to Nehemiah (who, in his defense, points out that he has never claimed the forty shekels daily "subsistence allowance"[14] that his predecessors did but instead lived at his own expense). However, they had been warned. The prophet Samuel preached on the dangers of human government, which he saw mainly as war and tax: "He will take the best of your fields, of your vineyards and olive groves and give them to his officials."[15] Indeed this message, possibly the only direct comment on general tax[16] by God through one of his prophets, still seems strikingly relevant today.

In the absence of any clear biblical tax code, theologians have of course applied Christian teachings to taxation (although less often than one might have thought), but these historic discussions of taxation have to be used with care[17] as they have generally been set within some form of monarchy. As taxes were therefore seen as the impositions of a king on his subjects, debate centered on the legitimacy and limits of authority rather than the tax itself. This gives their conclusions only a limited value in a democracy where the more useful discussion is of how the Christian should vote in relation to tax—a free decision to be exercised within the bounds of God's law rather than an exaction imposed by a human ruler.

It is therefore frequently argued, by those who see a Christian moral or theological basis for redistributive taxes, that modern taxation is a moral good, satisfying our duty of charity. At its extremes, this view is expressed in the claim that "the modern application of [charity] is by way of use of progressive taxation rates."[18] This is the main method used to gain Christian support for redistributive taxation—the welfare state that the tax funds helps our neighbor and therefore its expansion must be a Christian duty.

This is flatly contrary to Christian teaching. "At the heart of the Hebrew Bible is the God who seeks the free worship of free human beings,"[19] and just as our love of God is only real if it comes voluntarily from the heart, so, too, is our love of neighbor. Our duty of charity is one that we have to carry out voluntarily. There is no moral benefit in forced giving, as Saint Paul says: "Each one should give what he has decided in his own mind, not grudgingly or because he is made to, for God loves a cheerful giver."[20]

We have a duty of charity to our neighbors, and are warned not to follow riches, but these are personal duties laid on each of us individually rather than collective obligations that can be satisfied through compliance with a human tax system. We cannot contract out our duties to others, nor can we nationalize them into the welfare state. The Good Samaritan[21] did not leave the dying man to the priest and the Levite, agencies of the Jewish government, but tended him himself. Even less can we meet our duty to our neighbor by forcing another neighbor to meet his needs.

Just like the young man who asked Jesus how to enter heaven,[22] we cannot claim salvation based on how we obeyed the Law (even less human laws) but on whether we personally helped the poor. To equate our charitable obligations to paying our taxes is to behave like the Pharisees who "put aside the commandment of God to cling to human traditions";[23] thus, feeling that our obligations can be met through the fulfillment of human law rather than through personal love of our neighbor. Sadly, too many use tax to excuse lack of personal charitable action, believing that they have done good when they have merely obeyed the law.[24]

This, like much of Christianity, is difficult. Most of us would prefer to satisfy our conscience by financial contributions to a charity than by personally helping a homeless person, and even better if we can do so by a compulsory check to the Inland Revenue. There can be no moral benefit in enforced giving. Taxation does not satisfy, even in part, our duty of charity.

Moreover, even if we did accept that taxation is *a* legitimate way of expressing our practical love of our neighbor, it is certainly not the only way. Christ commands us to love our neighbor, and theology may give us guidance as to what that means, but the best or most appropriate way to do so at any particular time is a practical matter on which Christians may genuinely disagree. It is far from certain that state welfare is even the best way to meet the practical requirements of the needy,[25] and it is a legitimate option (and may well be a more considered one) for the Christian voter to feel that his obligations to his neighbor are better satisfied by some alternative means of action than by voting for welfare spending. Even more so, our obligation is not to meet the material needs of our neighbors[26] but to *love* them. It is far from certain that state welfare is the best way to encourage love between people, and many Christians may find that a more direct form of activity is more efficacious in transmitting love. As the point has been put:

> Malfunctions and defects in the [welfare] State are the result of an inadequate understanding of the tasks proper to the State.… By intervening directly and depriving society of its responsibility, the [welfare] State leads to a loss of human energies and an inordinate increase of public agencies, which are dominated more by bureaucratic ways of thinking than by concern for serving their clients, and which are accompanied by an enormous

> increase in spending. In fact, it would appear that needs are best understood and satisfied by people who are closest to them and who act as neighbors to those in need.[27]

Duty to Pay Tax

Our Christian duty therefore does not necessarily lead to an obligation to vote for high taxes. However there remains the second question: If taxes are imposed, how should the Christian react to them?

It is clear, from the teaching of Saint Paul, that if taxes are imposed, we have as Christians a duty to pay them.[28] However the passage in which he says so[29] is not about the moral good of taxes (the Bible makes no such claim) but about the authority of princes. Our Christian duty to pay taxes is merely part of our duty to obey the human laws of the state to which we are subject.

We must therefore obey the law, but what of the more interesting "gray areas" of tax planning, where one's tax liability is reduced without breaking any law?

First, we must explain terms. Tax *evasion* is the nonpayment or nondeclaration of taxes to which we are liable and so is illegal and therefore sinful as a failure to obey our legal obligations. It also generally involves fraud and false witness, which are sins in themselves.[30] In contrast, tax *avoidance* is the arrangement of our affairs so that tax is not legally due. As an example, not declaring bank interest received is tax evasion (if that interest is subject to unpaid tax), but transferring our money into a special type of bank account that has been granted an exemption from tax is tax avoidance.

Campaigners against tax avoidance attempt to load the question by using false definitions of tax avoidance, such as "where a relief is legally claimed … [but] the economic consequence … has not taken place."[31] Although popular in the 1970s, such avoidance has not been possible in the United Kingdom for decades. Since Ramsay's case in 1981[32] the court would void such an attempt. There is no need to worry about morality in these circumstances; such supposed tax avoidance simply does not work.

Another target, particularly of those who claim to speak on behalf of the Third World, is "transfer pricing," the process whereby "corporations shift profits to where they can avoid tax."[33] In a typical example of tax planning using transfer pricing, a multinational group would set up a company based in a low-tax tax haven. This company would hold the group's patents (or other intangible assets) and charge the other group companies fees to use them.

These fees would reduce the profits (and hence the tax) of the operating companies paying them, but the tax-haven company only pays tax at a nominal rate and so receives the fees virtually tax free (giving it a pool of funds to reinvest in the group's business).

Companies have indeed attempted to abuse this system, but most industrial countries now have very strong rules,[34] reinforced with provisions developed internationally through the OECD, to prevent multinational groups from abusing these arrangements. Essentially, most governments are satisfied that they are taking a fair amount of tax provided the fees charged between group companies are set at a proper commercial level. It would of course be possible for legislatures to impose stricter rules, but they have chosen not to.

Despite attempts by interested parties to muddy the distinction, in reality it is quite clear; tax evasion involves breaking a law, tax avoidance does not. However, it is important to remember that a law is broken even if the illegality is never discovered nor the perpetrator brought to justice; tax planning that involves, for example, hiding the ownership of assets is still tax evasion even if the tax authorities never discover the true facts.[35]

Tax avoidance therefore does not involve lying[36] or nonpayment of tax but merely carrying on one's business or other activities in such a way that the legal liability to tax is reduced. Is this also immoral? If one has a choice of two roads to reach one's destination, one of which passes over a toll bridge, it can hardly be immoral or illegal to chose the other route. In the same way, a company is entitled to chose between alternative legal ways to conduct its business, even if one bears lower tax, and the courts have long accepted this: "No man in this country is under the smallest obligation, moral or other, to arrange his … business … so as to enable the Inland Revenue to put the largest possible shovel into his stores" (Lord President Clyde, 1929).[37]

Indeed many "incentives" within the tax system are designed specifically and openly to persuade people to alter their behavior to take advantage of the tax reliefs on offer; the United Kingdom, for example, gives generous tax allowances to companies that spend on technical research and development precisely to encourage such investment. Governments therefore expect and in some situations encourage their citizens to engage in tax avoidance, otherwise their attempts to use the tax system to alter behavior would be pointless.

How Much Tax Is Due?

True tax avoidance (as opposed to evasion) is therefore perfectly legal and meets with the approval of the courts, but there are still those who argue for a category of legally effective but immoral tax avoidance. However, in order to do so, they effectively argue for a higher amount of tax than does the law, and they impose stricter obligations on taxpayers than would Parliament or the courts. Sometimes this is taken to extremes, with demands that taxpayers follow "the rules of taxation as laid down by Parliament and *as applied without contest or dispute by its taxation authorities*" (emphasis added).[38] This is clear nonsense, as it would result in an obligation to pay whatever sums the Inland Revenue demanded.

Not only does this place too much of a moral burden on the human tax authorities,[39] but it subverts the constitution. In the United Kingdom, and most other parliamentary democracies, tax (like all law) is set by Parliament and interpreted by the courts. The Inland Revenue and related bodies are merely administrators, not imposers of taxes. The courts, as we have seen, already prevent abusive tax avoidance from working and in doing so have made it perfectly clear that any other arranging of business affairs to reduce tax is perfectly proper. If this were not enough, Parliament reviews tax law every year through the annual Finance Bill and (despite speeches by some politicians) has seen no need to overturn the current arrangements.

Those who raise moral objections to legal tax avoidance can therefore only do so by putting their own opinions as to the correct amount of tax to be paid above those of Parliament or the courts. To do so is not only arrogance but also a challenge to the proper authorities, who, Saint Paul instructs us, it is in our Christian duty to obey. We can hardly fulfil our duty to obey the law by overruling those charged with passing or interpreting it.

However, should we not eschew all tax planning, and happily pay more tax than we might have to because it funds programs that help the needy? This is of course an option, and one that the Christian taxpayer should consider, but (as discussed above) it is not the only, nor necessarily the best, way to practice our love of our neighbor.

Conclusion

We can therefore postulate a framework for our theology of taxation:

1. Our duty to our neighbor is personal and cannot be satisfied through the taxation system. There is therefore no general Christian duty to vote for tax-funded welfare.
2. Our Christian obligation toward taxes is to obey the law, as interpreted by those who have been put in authority to do so; there can therefore be no category of legal but immoral tax evasion.

Some may find that their political beliefs lead them to desire higher taxes for business, but this is not a necessary Christian duty, and if they fail to impose higher taxes (or stricter tax rules) through the democratic process, they cannot then claim a moral duty for others to pay "tax" that the law does not impose.

This is not to say that we can sit back on our tax-free profits and feel justified; we still have our Christian duties, to God and to our neighbor, to satisfy, and they are so difficult that they are impossible without the grace of God. However, these duties are with us regardless of how much tax we have paid.

When we stand before the throne on the day of judgment and the King says "for I was hungry, and you gave me not to eat: I was thirsty, and you gave me not to drink. I was a stranger, and you took me not in," what will it profit us to reply, "Lord, I filed my tax return"?

Notes

1. Extract from the House of Lords' decision in the tax case of *Ensign Tankers (Leasing) Ltd v. Stokes* (1992).
2. Dave Hartnett, Deputy Chairman of the Board of Inland Revenue, The Wyman Debate, Institute of Chartered Accountants in England and Wales, 15 May 2003.
3. Ibid.
4. "Tax, Risk and Corporate Governance," Henderson Global Investors, London, February 2005.
5. "The Church has no [economic] models to present … [but] the Church offers her social teaching as an indispensable and ideal orientation," paragraph 43, *Centesimus Annus*, encyclical of Pope John Paul II on the hundredth anniversary of *Rerum Novarum* (the encyclical of Pope Leo XIII on capital and labor), Rome, 1991.

6. Dave Hartnett.
7. "The socialists, stealing the very Gospel itself with a view to deceive more easily the unwary, have been accustomed to distort it so as to suit their own purposes," paragraph 5, *Quod Apostolici Muneris*, encyclical of Pope Leo XIII on Socialism, 1878.
8. Exodus 30:15 (Jerusalem translation used throughout).
9. Numbers 31:28, although this was an offering to God (as was the Exodus poll tax) to be given to the priests for sacrifice, rather than a tax for the purposes of the civil authorities.
10. 2 Kings 23:35; however, verse 37 says that Jehoiakim "did what is displeasing to God" (although this seems to refer to his general conduct rather than just his tax policy).
11. 2 Kings 15:20; however this money was raised by King Menahem to pay to Pul, king of Assyria, "in return for his support in strengthening his hold on the royal power," and so does not appear to be a particularly moral example.
12. A possible form of distinction is on the basis of the standing of the person who introduced each tax. The poll tax in Exodus is a direct commandment from God to Moses although it is for a specific purpose, "the ransom for your lives" on their delivery from Egypt, rather than a general tax to fund government purposes. In contrast, the proportionate taxes in the book of Kings were introduced by human rulers who incurred God's displeasure.
13. Nehemiah 5:4.
14. Nehemiah 5:15.
15. 1 Samuel 8:14.
16. If we exclude the Exodus poll charge as not being a normal tax—see note 12 above.
17. For a discussion of the rareness, and difficulties, of economic analysis of the Bible, see Maughan & Copp, "Economic Efficiency, the Role of Law, and the Old Testament," *Journal of Interdisciplinary Economics* vol. 14 (2003): 249–98.
18. Murphy, "A Theology of Taxation," *Faith in Business Quarterly* (Winter 2003/4).
19. Rabbi Professor Jonathan Sacks, "Morals and Markets," *Institute for Economic Affairs*, London, 1999.
20. 2 Corinthians 9:7.

21. Luke 10:29–37.
22. Matthew 19:19–22.
23. Mark 7:9.
24. This moral hazard in taxation is not just a theoretical risk; charitable giving is higher in the United States (where taxes are lower) than in the United Kingdom but lower in the rest of Europe where taxation is generally higher.
25. For a study of the harm (both spiritual and material) done by the welfare state to society, and particularly to the poor, see Bartholomew, "The Welfare State We're In," *Politico's*, London, 2004.
26. Although that certainly can be a part of this duty.
27. Paragraph 48, *Centesimus Annus*, encyclical of Pope John Paul II on the hundredth anniversary of *Rerum Novarum* (the encyclical of Pope Leo XIII on capital and labor), Rome, 1991.
28. This may not be an unlimited obligation; Saint Thomas Aquinas developed the theory of just laws and explored the limits to our obligations to obey those that are unjust, and later theologians applied his principles to taxes. However, for the purposes of this article, I will assume that our tax laws are sufficiently just.
29. Romans 13:6–7.
30. The question of giving information to the tax authorities that is misleading but technically true is more difficult. Abraham described his wife Sarai as his sister when visiting Pharaoh (Genesis 12:13); although technically true (as his niece she was covered by the Hebrew word) this was clearly intended to deceive. However, this need not concern us here, and we will assume full honesty.
31. Murphy, "A Theology of Taxation," *Faith in Business Quarterly* (Winter 2003/4).
32. *Ramsay (WT) Ltd v. Inland Revenue* (1981); the same principle continues to be applied by the courts, notably in a recent leading House of Lords tax case *MacNiven v. Westmoreland Investments* (2001).
33. Declaration of the Tax Justice Network.
34. Finance Act 1998 s108(2) in the United Kingdom.
35. My personal test is something like this: "If this matter went to court, and the full and true facts were put before the judges, would they determine that a tax liability existed?" Of course this involves an exercise of judgment, but that is the purpose of a professional.

36. Under some systems it may be possible to avoid a legal liability by lying or not declaring certain facts (because the legal liability depended on the issuing of a demand by the tax authority, which they could not do without information). As the false (or non) declaration is itself illegal, I would regard this as tax evasion rather than avoidance. Certainly in the United Kingdom this question is no longer relevant as the introduction of "self-assessment" has removed this legal lacuna.

37. Extract from the House of Lords' decision in the tax case of *Ayrshire Pullman Motor Services v Inland Revenue* (1929). A similar but more famous quote is that of Lord Tomlin in *Inland Revenue v. Duke of Westminster* (1935), "Every man is entitled to arrange his own affairs so that the tax … is less than it otherwise would be."

38. Murphy, "A Theology of Taxation," *Faith in Business Quarterly* (Winter 2003/4).

39. Tax authorities were not perfect in biblical times and are still not today. In recent years, a senior officer of the Inland Revenue has been hauled before the Court to apologize for a flagrant breach of law by his department. In 2004, the head of the legal office and the director of enforcement at Her Majesty's Customs and Excise (responsible for VAT and import duties) were suspended after a police investigation into an alleged institutional practice of encouraging illegal activities (see Indirect Tax Voice, Chartered Institute of Taxation, London, January 2005). Giving tax authorities wider powers seems to exacerbate this problem; recent reports have suggested that the Australian tax authorities deliberately allowed borderline tax practices to continue, giving taxpayers the impression that they were officially approved, in order to entrap more taxpayers under their strict anti-avoidance laws when they finally took action.