

A Theology of Taxation

by Richard Murphy

A quick search of Google will show that the theology of taxation is not a subject that has set the world alight. In fact, in December 2003 the phrase turned up just four links. I find this surprising, since taxation has become the key issue in electability in western democracies over the last thirty years. You hardly need to be a practising chartered accountant, as I am, to have some interest in the subject of tax.

Straightaway I should make clear that from the viewpoint of many tax practitioners my interest is unusual. I am one of very few accountants who argues:

1. that business does not provide the Inland Revenue with enough information;
2. that business does not pay enough tax; and
3. that the Inland Revenue is, in particular, not harsh enough on big business and foreign domiciled individuals resident in this country.

I argue all these positions as a member of the Tax Justice Network¹ and of the think tank *The Association for Accountancy and Business Affairs* (AABA)². But I do so because I believe it my Christian duty to argue in this way. That feeling is based on my developing theology of taxation.

Perhaps the lack of a developed theology of taxation is in part due to the fact that there are fewer references to tax in the Bible than most people might expect. Those that there are fall into four broad groups:

1. Old Testament references. These rarely mention the word “tax” as such but instead refer to personal



levies (or a poll tax) e.g. Exodus 30:15 and Nehemiah 10:33; taxes on land, as in Genesis 41:34, or how they were to be paid (in grain in Amos 5:11 and 7:1, or in provisions as in 1 Kings 4:7). 1 and 2 Kings has more on tax than any other books. But then, much of those two books are taken up with matters of government. And in most cases the reference is again either to the means of payment or for what it was used, in this case mainly for war or its consequences. Finally, there are, of course, the references to tithes in Leviticus 27:30-32.

2. References in the teachings of Jesus, of which the most obvious are with regard to the payment of tax (Luke 20:25 – “pay to Caesar what belongs to Caesar” and Matthew 17:27, the authenticity of which as a saying of Jesus may be in doubt). What these limited teachings unambiguously say is that tax should be paid when due.

3. Paul’s references to the matter, which reinforce this view, e.g. Romans 13, the core message of which is that Christians should pay their dues to the powers put in place above them, on the assumption that these powers are instituted by God.

4. A wide range of references throughout the Bible to the unpopularity of taxes and, in particular, tax collectors.

Although not substantial as a body of evidence, each of these have themes in common:

- a. that tax is a fact of life;
- b. tax should be paid by those of faith;
- c. the second rule applies even if those of faith do not agree with the policies of the government collecting it.

The commonality of these themes is in itself surprising and comprise a clear message for those of faith.

What is not clear is how the tax should be levied, or upon what, or how it should be settled. A poll tax is mentioned. For example, the atonement tax of Exodus 30 and the tax referred to in Matthew 17 are both of that nature. However they are of small amount and, therefore, I suggest, not indicative of a general attitude to tax. In other cases proportionality and the ability to pay is considered. For example, in 2 Kings 15:20, the tax was only taken from “the men of substance” whilst in 2 Kings 23:35 we are told Jehoiakim “exacted the silver and gold from the people of the land, from each proportionately”, but

frustratingly are not told what that might mean. The title of course was proportional, but also a flat rate at 10%. And since payment was made on occasion in cash, grain and provisions, the evidence is not completely persuasive as to what is a Biblical basis for taxation.

It is therefore necessary to derive further grounds for a theology of taxation from an interpretation of the social and economic teachings to be found within both the Old and New Testaments. This is, of course, a subjective and difficult task. So before doing so there is one further matter to consider: why is this relevant?

In my opinion a theology of taxation is now vital for those of faith who are involved in trade. I believe this is because the attitude and actions of the trade community with regard to taxation are now the clearest available indication of:

1. what it considers the relationship between wealth creation and society to be;
2. the real corporate social responsibility of the company that is making the payment.

In essence, a company or corporate sector that agrees to pay the tax demanded of it without seeking to either avoid or evade that responsibility is showing that it accepts its role as a member of a governed community and that it accepts its duty to contribute to it. I believe that this duty accords with a Christian's duty based on the biblical sources noted above. In particular, the New Testament teachings of Jesus and Paul seem unambiguous on this point. In that case the practical question as to what tax avoidance is,

has to be answered, the presumption being made that as tax evasion is by definition illegal it is always ethically unacceptable to Christians.

The question of tax avoidance is a difficult one. It is precisely because it is, that there is a need for a theology of taxation. We only need guidance when issues are grey or difficult. So, for example, the normal process of completing a tax return for an individual or a corporation includes the claiming of allowances and reliefs provided for in legislation. Few would really suggest that this is tax "avoidance". Most would say it is tax "compliance". This is a process of using the rules of taxation as laid

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down by Parliament and as applied without contest or dispute by its taxation authorities, to determine the appropriate amount of tax to pay. The characteristic of tax compliance is that the legislation and tax authorities in question have determined that if a series of transactions of real economic consequence have taken place, e.g. a piece of equipment has been purchased, then a prescribed relief can be claimed, in this case that for a capital allowance.

If this distinction between compliance and avoidance is made, then those who agree with it suggest that tax avoidance is a situation where a relief is legally claimed e.g. for a capital allowance, where the economic consequence of purchasing the asset has not taken place. This has proved possible, for example, in

certain forms of financial leasing. In such situations the relief is legitimate, but because the intended financial consequence of the transaction that was meant to give rise to it has not been suffered, the outcome is tax avoidance rather than tax compliance. There are cases where such situations can be created and exploited by individuals, but they are more common for companies, if only because their tax affairs tend to be more complicated.

For most companies, probably the most common example of tax avoidance now is in the shifting of profits out of the UK through various forms of what is called "transfer pricing" into tax haven territories. This is a practice widely used (and in many cases, abused) by quoted multi-national companies, almost none of which pay tax at the rates one would expect of a large UK company, indicating prevalent use of such policies. The cost to the UK Exchequer is hard to estimate, but the total world-wide loss to governments from this practice is estimated to be not less than \$50 billion in an Oxfam report of 2000. This happens to be as much as total annual aid flows.

For some the defence of such practice is based on Jesus' most commonly known teaching on tax, which was that one should pay what is due to Caesar to Caesar and what is due to God to God. Unfortunately it seems that this teaching has frequently been used as justification for the view that taxation is a secular matter which is unrelated to a person's duty to God. In other words, if it can be technically, and however remotely, argued that a tax liability is not due, then there is no liability to Caesar. In that case it is suggested

that because the duty to pay tax was only to Caesar, and not God, on the basis of this interpretation of Christ's words, no accounting is required to the latter for any moral consequence of the action taken to avoid the tax bill (avoidance being used in this case in the context I note above). It is this dualistic approach, which suggests that as long as the law is complied with, any action in taxation is acceptable, that would appear to be used by many Christian business people to justify their actions in avoiding tax. They would not dream of using a similar argument to justify actions which are legal but nonetheless wholly unacceptable to the Christian believer, for example in the area of sexual morality. I cannot find any other basis on which many Christians (who otherwise consider their actions ethical, and even corporately socially responsible) promote tax minimization through avoidance, as a necessary and appropriate business process. It is, for example, reasonable to say that the actions of the Big Four firms of accountants, all of whom actively and vigorously promote tax haven activity, can only be justified if such duality is accepted as correct.

I think this view of Jesus' teaching is wrong. If, as his other teachings make clear, it is a Christian's duty to obey the requirements of civil authority with regard to tax, then I can see no room for such a dualistic argument based upon this one, well known, phrase. The construction of that phrase has, instead, to be seen inside its own quite distinct and separate context which had nothing to do with taxation. The result is that I cannot accept the view that transfer pricing, the use of offshore locations, and similar tax avoidance practices,

are in any way consistent with Christian behaviour. These transactions and others like them are designed purely to avoid tax, contrary to the wishes of elected Parliaments, and without the necessary economic consequences of the transactions they purport to represent being suffered. The consequences occur at cost to others whom the Christian has accepted a duty to love.

Paul's suggestion seems to coincide with this view. It is hard to believe that Paul, even though a Roman citizen, could have endorsed all the

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views of that regime. Yet in Romans 13: 6 & 7 he says

This is why you also pay taxes, for the authorities are ministers of God, devoting themselves to this very thing. Pay to all their dues, taxes to whom taxes are due, toll to whom toll is due, respect to whom respect is due, honour to whom honour is due.

This too seems a reasonable interpretation of Jesus' view. Both opinions appear quite clear and can be summarised as "pay what is asked of you". In both cases there seems to be undoubted support for the idea of tax compliance and against those of avoidance, let alone evasion. In my opinion, this is the first essential element of a theology of taxation.

Another clear component of such a theology is with regard to the rates at which tax is due. As is noted, the idea of proportionality is very old,

and has inherent within it the concept of fairness. This concept of proportional fairness is a second key element of any theology of tax.

But what is fair? Looking for wider inspiration, the suggestion that after his calling by Jesus, Zacchaeus repaid the excessive tax that he had collected, might be seen as an argument against excessive taxation. I do not agree. It is an argument against abuse of the tax system by anyone. That follows as a third tenet of such a theology, which applies to the assessor as well as the assessed.

What cannot be argued on the basis of the 10% rate of the tithe in Leviticus - as some have done on the political right in the USA - is that there is any biblical basis for the notion of either low tax rates or flat rate taxation, and that anything else is unfair. Apart from the fact that 2 Kings 15:20 clearly shows other bases were known, such an argument ignores our duty to interpret the Bible in its modern context in accordance with sound hermeneutical principles.

The person who has most thoroughly and publicly offered such an interpretation in recent years is Susan Hamill, a professor of law at the University of Alabama. She has published the leading current paper in this area³. In this she sought to argue on theological grounds to a state legislature with a high degree of professed Christian or Jewish members, that Alabama's state tax code, which is both deeply regressive (i.e. rates are highest on the poor) and profoundly more expensive for the poor than almost any other state in the USA, is contrary to the ethics of Judeo-Christian teaching.

I concur with her suggestion that:

1. regressive taxation is contrary to Biblical teaching;
2. progressive taxation is consistent with biblical teaching;
3. it is appropriate that those with wealth should pay more tax than those without it.

I base these conclusions on the following:

a. Old Testament teachings make clear that those with a surplus from production (in modern parlance, a profit) should leave for the poor (in these days represented by their dependency upon the tax-financed welfare state) sufficient for them to maintain themselves. This is for, example, inherent in the idea of gleaning (Lev 19:9, Deut 24: 19-22). No teaching to the contrary is ever found.

b. The teaching in Jesus' second great commandment that we should love one another. It has been suggested by Hamill that this must, in part, be interpreted as being expressed through the provision of charity and the modern application of this is by way of use of progressive taxation rates.

c. The teaching derived from Genesis 4:9 and repeated implicitly by Jesus in considering who is our neighbour, that we are our brother's keeper. This teaching implies that an unjust treatment to a fellow human being is a wrong committed against God. Our equality in creation places upon us a responsibility to care for each other. Hamill interprets this as a duty to pay progressive taxation since those with greater means have a duty to provide more for their fellow human beings. I agree.

d. The clear teaching in Matt 6:24 that a dedication to the accumulation of cash is contrary to devotion to God. Where a sufficiency

of cash exists there is a duty to forsake wealth in favour of others if one is to answer the call of God. Again, this can, in its modern context, be seen as an endorsement of progressive taxation.

What this last teaching most clearly says, in the broader context of the teachings on prayer that immediately precede it, is that Christ must be the unambiguous centre of the life of a Christian. In that case I believe that the suggestions Hamill makes necessarily follow: progressive taxation based on the ability to pay is a fourth necessary part of a theology of taxation. We do have a duty to provide for those less well off than ourselves and in part that is expressed through accepting and paying progressive taxation.

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Finally, how does this apply to the corporations of the world, bodies of a type unimagined at the time of Christ? In my opinion those with a right to share in the profit of a corporate enterprise have, by definition, a surplus out of which provision for others can be made. The reason for this suggestion is that to invest in a company does, in the first place, necessarily require there to have been excess resources available to the subscriber. In that case the return available to them in the form of profit must also, effectively, be in excess of immediate need or they would have sold their interest in the share capital before such opportunity for distribution arose. It follows, therefore, that of all sources of income this is one that the Christian should expect to be taxed,

and progressively, because, by definition the profitable company will always be able to afford to pay tax, it being only a chartered structure formed on behalf of its members. In that case the following hold true, based on the teachings noted above:

1. The limited company should seek to declare appropriate results reflecting the transactions it has actually undertaken in a territory for both accounting and taxation purposes;

2. It should seek to pay the appropriate tax (but no more) that those transactions give rise to in those territories;

3. It should not seek to avoid the liabilities which it owes by undertaking transactions purely for the sake of avoiding taxation, nor should it seek to present any transaction other than it is for the same reason;

4. The corporate body should willingly pay that tax as a measure of its contribution to the society in which it belongs, at the rates set by that society using whatever system of government it believes appropriate.

These conclusions form the fifth part of my suggested, and developing, theology of taxation. In combination that theology challenges much existing thinking in this area. This has had serious impact upon my own professional practice. But that is what one might expect of Christian teaching.

Richard Murphy is a UK based chartered accountant. Aged 45, he trained as an auditor and in tax with what is now KPMG, London before setting up his own firm of chartered accountants. By the time he and his partners sold this in 2000 it had 800 clients. He has also had an active career

in commerce and has been chairman, chief executive or finance director of nine trading companies in either the UK or Ireland. An active writer, he contributes regularly on taxation matters to the Observer newspaper and a range of professional magazines. He has also appeared on television and radio in connection with taxation issues. His papers on pension reform and on the UK consumer credit industry published

for the New Economics Foundation in 2003 are known to be influencing government and union thinking in the UK. He has campaigned for the reform of UK and international tax law relating to tax havens for a number of years and is an active member of the think tank, The Association for Accountancy and Business Affairs. An Anglican, and formerly a Quaker, he worships at Ely Cathedral.

References

1. The Tax Justice Network can be found at <http://www.taxjustice.net/>
2. AABA can be found at <http://visar.csustan.edu/aaba/aaba.htm> or simply type AABA into Google
3. Prof Hamill's home page <http://www.law.ua.edu/directory/bio/shamill.html> provides useful links to a number of her writings on this theme. Her treatise is available at <http://www.law.ua.edu/pdf/hamill-taxreform.pdf> for those willing to read 112 pages of largely footnotes

THE VIRTUES OF BUSINESS

26-28 March 2004

A Residential Conference at Ridley Hall, Cambridge

In recent years there has been a resurgence of interest in character and the virtues. 'Follow the rules' and 'calculate consequences' are being seen as increasingly unsatisfactory answers to the question how we should make moral decisions. In contrast, the virtue approach focuses on what we *are*, believing that this will ultimately take care of what we *do*. It asks the questions:

- What are the traits of character that equip us for making good and wise decisions?
- What are the types of community that contribute to the formation of that character?

This way of thinking is no new discovery. It draws on a longstanding tradition which goes back to the ancient Greeks. They spoke of four **cardinal** virtues, prudence, justice, temperance (or moderation) and fortitude (or courage). Christian theologians added and integrated the three **theological** virtues of faith, hope and love, believing that these seven virtues provide the intellectual and moral equipment for living life well. This way of understanding the moral life proved influential over many centuries. After suffering from a period of neglect, the virtues are now staging a strong revival.

The application of virtues thinking is also going on in the world of business. Several contemporary writers think this is the most fruitful route for business ethics to take. Clearly, how we see the virtues practised in business will be closely connected to how we view the essential virtue or purpose of business. But whether we think primarily of shareholder accountability or of stakeholder responsibility – or some balance between the two – many of the same moral requirements recur. People need to know they can trust the business they are dealing with. Hence the relevance of focusing on the qualities expected of the *good manager* and the *good organisation*. We need to work out and spell out the virtues that will help companies to flourish and thrive.

That is why the Ridley Hall Foundation is holding a conference on **The Virtues of Business** at Ridley Hall, Cambridge, from 26 to 28 March 2004. At the heart of the programme will be presentations by several distinguished Christian businesspeople, looking back over their careers and assessing the relevance of a particular virtue. Ensuing group discussions, earthed in case study material, will provide further opportunity to 'flesh out' what these virtues mean in real life situations.

This conference will be of interest to many practising business and professional people, especially those in positions of middle or senior management. It will also attract academics with a concern for applied as distinct from merely theoretical ethics.

The Ridley Hall Foundation has a proven record, established over the last 14 years, of running enjoyable, participative and productive conferences on topical and important issues which confront people in the workplace. These take place in the attractive setting of Ridley Hall, within the context of Christian worship. This particular conference is being staged in partnership with the Christian Association of Business Executives (CABE), which is engaged in a research project on the application of the virtues in business.

The main speakers at the conference are Clive Wright, James Allcock, David Runton, Ann Raven, David Murray, Dermot Tredget and Richard Higginson. The cost for attending in a private capacity is £145.

To make an early booking for the conference contact Richard on 01223 741074 or rah41@cam.ac.uk. Most readers of FiBQ will already have received a leaflet about the conference.