

Has UK Uncut got the arguments wrong?

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Mark Lee is a man I respect. He [has published a piece on UK Uncut](#) saying that for eight years it has got its arguments on tax wrong.

Given I am not responsible for UK Uncut's arguments on tax This is something on which I can stand back and offer dispassionate comment. So let's look at what Mark argues:

1 - Who is to blame for the UK's complex tax system?

Labour, Mark says. He argues the Coalition Government have promised a new approach and the evidence to date is that they will do as they have promised.

2 - Who let the Big Companies reduce their tax bills?

The unpaid taxes that UKuncut complain about relate to the 13 years that Labour were in power. You can't blame the Coalition Government for tax avoided before they were elected.

3 - The Coalition Government are taking action to reduce aggressive corporate tax avoidance

The Coalition Government has announced numerous anti-avoidance tax rules to further reduce the opportunities for aggressive tax avoidance. They aren't ignoring the issue.

4 - Who is the bad guy here?

Either UKuncut is protesting about the Coalition Government's cuts or about tax avoidance being allowed to continue. Either way the complaint is against the Government rather than against the workers and customers of the stores being attacked by the protests.

5 - There is a degree of naivety at stake here - especially by protesters who don't pay tax

Only a minority of the protesting students have ever paid tax on their earnings. Most employees who pay tax through the PAYE system are understandably frustrated at how much of their pay goes in tax. They want to pay less. If they could, they would. The tax rules for employees make this more difficult than for the self employed and for business owners. But it's still a natural reaction. Those who've not paid tax to date seem not to have considered what their reaction will be to the payment of tax.

6 - And there are clear double standards too

Almost every self employed person and small business operator in the UK expects their accountant or tax adviser to help them pay less tax than they otherwise would do so. I wrote a piece recently: Doesn't everyone try to avoid or evade taxes? Common requests are "What can I do to pay less tax?" "What can you do to reduce my tax bill?" and so on. As long as such tax avoidance is within the rules they break no laws. Why should big businesses be held to a different standard?

7 - What about tax avoidance by footballers and football clubs?

Not only do top players receive outrageously high salaries but their contracts invariably entitle them to payments for 'image rights'. Substantial amounts of tax are avoided (legally - most of the time) but no one seems to care, except HMRC who regularly petition Governments (old and new) to change the rules to limit the capacity for such tax avoidance. However it seems no one wants to protest outside football clubs though to make these "wealthy tax avoiders pay!".

8 - No one pays tax unless it is due

If an individual or a company arranges their affairs so that less tax is payable than would otherwise be the case, that is all they will pay. Paying more than this isn't an option. If there was a way in which you could change things and be liable to pay extra tax in future years, it's likely to take some time to make the necessary changes to your business structure etc. Simply stated, no one should be expected to make excessive payments to the taxman. And even if they did, HMRC's computers would simply show such sums as overpayments and then refund them at a later date!

I hate to say it but Mark really has missed some very important points here.

First, let's be quite clear that no one is I hope saying tax compliance is wrong. Mark seems to have argued for the difference between tax avoidance and tax compliance on a number of occasions - [a difference I explain here](#). Of course people are allowed to organise their affairs how they will within the constraints of tax compliance - but that still means the economic substance is consistent with the form in which transactions are reported for tax - and that does, for example, by definition exclude offshore structures where almost without exception this cannot be true. In that case, with the very greatest of respect to Mark he is choosing to utterly miss the point in what he

argues, or the fact that there is a valid and invalid spectrum of choice within the tax system, and instead resorts to the standard "it's legal so it's OK argument" of so many in the tax profession. I expected better of him and his Network.

Second, Mark shows undoubted political bias in many of his opening comments. First, of course Labour created a great deal of legislation - but vast amounts of it were to tackle the concerted attack on the tax system from the tax profession. Much of the 2004 Finance Act was designed to create the Disclosure of Tax Avoidance Schemes arrangements that have been very successful in tackling a great deal of abuse. Over many years a great deal was done to tackle trust abuse, as well. I could go on, and on. The point is that Mark was one of those from the ICAEW arguing regularly for tax simplification but never for a general anti-avoidance provision. The real motive of the ICAEW approach was little different at the end of the day from the flat tax brigade - it was a way of arguing for rolling back the tax frontiers that were bound to reduce the burden of tax on business and to increase it on the employed. I'm sorry Mark - but your argument is disingenuous. The reality is that tax legislation expanded to tackle abuse, and not to create loopholes. And the abuse came from the tax profession.

Third, to argue that the Coalition is showing signs of tackling this issue is at the very best wishful thinking. They have said they will look at a general anti-avoidance principle and maybe at the domicile rule - both issues I persuaded the Lib Dems to look at and which they have now in turn brought into the Coalition. But let's also be clear - looking at these things is far from the same as actually introducing change - and I think Osborne's commitment to these things shallow to say the least. I think his plans to reduce tax on the overseas earnings of UK companies, to weaken the controlled foreign company rules to the point where they are meaningless and his new patent tax rules are clear indication instead of his great desire to make massive new opportunities for tax abuse. To put it another way - whilst Labour does not have enough to write home about - and also was responsible for some absurd tax decisions to appease the corporate lobby and its friends in the profession - and I was critical of it in office - the argument that the Coalition is somehow superior is unsustainable on the basis of current performance. Its clear lack of commitment to country by country reporting - unlike Labour - is another clear indication of its lack of interest in tackling tax abuse.

Mark is right on one point, of course, that most students don't pay tax. But who says the UK Uncut protestors are all students?

And let's also be clear. UK Uncut did not as far as I can see "attack" anyone. I have no truck with violence and these were non-violent protests. I sincerely hope they are never anything else. People exercised their right to demonstrate. To call that an attack is irresponsible - the exercise of a democratic right is not an attack - it is something that generations fought for the right to be able to do. The use of the word "attack" is in this case an attack on democracy and hyperbole. It is not in any way objective commentary. Sorry Mark - please be objective when making your case is my point.

Finally - so what about football clubs? Is Mark actually saying they should be the subject of the next protests? Is that the point? I don't get it.

What I do get is that this is not a series of arguments. This is a series of unsupported statements that do not amount to an argument. They do amount to a political statement that is without logical foundation, but no more.

And whilst it is undoubtedly true that some of the arguments of UK Uncut have been over simplified by some - for example it is not true that tackling tax avoidance and evasion can prevent all cuts - this again misses the point entirely. UK Uncut has played to an audience in the media and like it or not (as I have said to the media quite a lot of late when they have asked why corporate entities are being picked on) the fact is the media demands stories of this sort before they'll give an issue attention. I wish they would not because the reality is that the problem we are facing is a systemic one, but that's a much harder story to sell to the press. And whilst change is affected by attention gathered through the media no one can blame UK Uncut for working its media audience with some ability and with examples which most members of the public resonate with.

So let's move on a little. Mark's arguments are weak, or just wrong. I have no love of our current government, and think that to say it is somehow going to be tougher on business than Labour when big business are the only people facing the prospect of tax cuts is obviously wrong. But Labour too was ensnared by the corporate lobby and that's the real issue here. There is nothing wrong with business. I stress that point and will continue to do so. But business does not have a right to avoid tax through offshore - not available to the vast majority. Big business should not be the agent for widening the wealth and income gaps in the UK. Big business should not seek to get round the law when we grant it its licence to operate.

In other words we can expect big business to show respect for the communities that host its activities.

We can expect it to be tax compliant - which still lets it tax plan - but which ensures it seeks to pay the right amount of tax in the right place in the right time (which is not always straightforward, but where actions speak loudly of intent). And we can expect it to be accountable for what it does and does not pay in tax, and where.

This is about the accountability not of some neutral, insignificant entities each of no consequence to the UK (the type of entity beloved of the economic theorists who promote the mantra that tax is bad), but of the accountability of major corporations with significant power which they can use for good or harm, not to be too blunt about it.

And some are saying - and I think rightly so - that some corporations are not exercising best judgement and if that is the case then reform is essential to protect the poorest and most vulnerable in society who will otherwise bear the price these corporations

should be settling. A society is judged on how it treats the weak within it, not the strong. Few are stronger in our society than big corporations. To ask them to use that strength benignly is a reasonable request in a democracy. That is what I think UK Uncut are doing - although I do not want to put words into their mouths. And if they do so peacefully that's fine. Because this is about systemic failings, not party political ones, and about ethics, not petty point scoring.

I don't think Mark rose to that debate.

But if he wants to come back here and post a full reply he'll be welcome to do so.

In the meantime I think UK Uncut are showing the greater perception of the issues, and that's why as some corporations told the Observer pre-Christmas, they have no idea how to respond to this issue.