Funding the Future

If Toby Young wants a debate on tax avoidance, let's ha...

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Toby Young is animated on the Telegraph blog this morning. It seems that my blog about his review of Nick Shaxson’s book â€šÃ„Ã²Treasure Islands” got retweeted by UK Uncut yesterday and Toby Young is upset as a result.

On the Telegraph blog this morning he has said:

Tax avoidance isn't morally wrong. It's perfectly sensible behaviour

I, of course, completely disagree. And since he adds:

Rather than trade insults with UK Uncut and others, I thought it would be more productive to set out the case for the defence here and invite them to respond in the comments. Hopefully, a playground spat can be transformed into a grown up debate.

He goes on to do two things. The first is to split the world into tax evaders (which he thinks illegal and wrong) and tax avoiders (an activity, legal and so right).

And he then repeats his claim, which is, in his own words, based entirely on the following argument made in his review of Nick Shaxson’s book:

The moral case for forcing the rich to pay more tax isn't as clear-cut as Shaxson seems to think. One of the more amusing chapters in Treasure Islands concerns the Vesteys, for many years Britain's wealthiest family, who Shaxson treats as a case study in financial chicanery. But as Edmund Vestey says: "Let's face it, nobody pays more tax than they have to. "

When you think about it that's true. And far from being immoral, it's perfectly rational. This argument was neatly summed up by Conservative thinker Andrew Lillico: "If you buy freshly squeezed orange juice, the price includes VAT. If you buy standard concentrated orange juice, there is no VAT. So if a key reason you buy concentrated orange juice is that it is cheaper, you are avoiding paying VAT. Is that wrong? Spirits incur higher alcohol excise duty than beer. So if you would fancy a whiskey but consider the price a bit steep and so buy beer, you are avoiding paying tax. Is that wrong? "

The answer is patently no. Indeed, governments routinely increase taxes on certain *things — such as cigarettes — in the hope that we will alter our behaviour as a consequence and avoid buying them. It would be odd if a government told us it was perfectly right and proper for ordinary citizens to engage in tax avoidance, but not the rich. Just because there's more money at stake doesn't make it immoral.*

I thought I’d dismissed this yesterday, but let me return to it in more depth since Toby Young seems quite unable, so far, to see the error of hs ways.

Firstly, and very importantly, Toby Young is very obviously wrong to assume that because something is legal it is morally acceptable. I only have to refer to the fact that apartheid was legal in South Africa for many years to make the point for the benefit of the vast majority of the population. But for those in doubt still, the abortion debate rages quite independent of legality, as does that on many forms of discrimination. Surely Toby Young can see this? Surely he can see that to take moral guidance on tax avoidance from the law is very obviously wrong, precisely because the law is itself not a constant and is itself constantly changing, being informed by moral judgment, some of which we can rightly disagree with and so long as we do not break the law we can act on a different moral plain as a consequence. In other words, his criteria for determining morality in this case is entirely false.

Second, Toby Young seems to think that the only reason for charging tax is to raise revenue. He is, of course, wrong about this as well. As I have argued there are five reasons for taxation. Tax is used to:

1. Raise revenue;
2: Reprice goods and services considered to be incorrectly priced by the market such as tobacco, alcohol, carbon emissions etc.
3: Redistribute income and wealth;
4: Raise representation within the democratic process because it has been found that only when an electorate and a government are bound by the common interest of tax does democratic accountability really work; and finally to facilitate:
5: Reorganisation of the economy through fiscal policy.

Let's ignore the fourth for now as it largely relates to developing countries, and let's also ignore the fifth, as it is a macroeconomic issue and instead concentrate on issues 1 to 3. Toby Young only considers the first issue. He's wrong to do so. He has to consider the other's too.

And he also has to consider the language he uses. It is not just absurd, but very obviously wrong, to argue that someone paying into their pension is tax avoiding in the same way as someone setting up complex multi-jurisdictional offshore structure arbitraging different tax, legal and quite probably accounting systems to secure a tax advantage is tax avoiding. This is precisely why we had to create appropriate language for this debate. That language introduced the concept of tax compliance.

Tax compliance is different from tax avoidance and tax evasion because it is defined as seeking to pay the right amount of tax (but no more) in the right place at the right time where right means that the economic substance of the transactions undertaken coincides with the place and form in which they are reported for taxation purposes. The significant difference between tax avoidance and tax compliance is the intent of the taxpayer. A tax avoider seeks to pay less than the tax due as required by the spirit of the law by getting round the law (and so avoiding it). A tax compliant tax payer seeks to pay the tax due (but no more).

Tax law in this context does, however, have to be seen in its full context — using all the reasons for taxing, not just Toby Young's selected one case of raising revenue. So, using his examples, the reason why concentrated orange juice is zero rated as a food is that there is a social reason for reducing the tax on this item to meet a social goal of ensuing people have access to a healthy diet at a reasonable price. Since vitamin C is a part of a healthy diet access to it is vital, and one of the cheapest ways to do that is by ensuring orange juice is readily available. So orange juice concentrate is an essential food and as such zero rated. But, that social objective is fulfilled by zero rating just concentrate, the form in which most orange juice is, in any event, made available. Freshly squeezed orange juice adds almost no extra nutritional value I suspect, and it is a luxury item. There is no social reason for subsidizing it at all.

The person who chooses concentrate over freshly squeezed is not therefore avoiding tax. They're fulfilling the social (call them moral if you wish, it's optional) goals of the government's tax policy. They could not justify the price of fresh squeezed orange, but the social goal of ensuring access to vitamin C has been fulfilled by the deliberate choice to reduce the tax on concentrate. This is not therefore tax avoidant activity; it is very strongly tax compliant activity. The consumer is unwittingly choosing the option the government wants t make available through the operation of the tax system. So, to put it another way, Toby Young is wrong. Just as he is also wrong on the example involving alcohol. Again, the government wants to quite consciously wean people off hard licquor and onto lower alcohol drinks. So by making that choice the person is doing exactly what the government wants. You can't be avoiding a tax when complying with the government's wishes. That just is not possible. As a result Toby Young is wrong on both counts.

Toby Young clearly needs is another example, which explains to him, in simple terms, just what tax avoidance is. So let me offer him one. Suppose a person goes into a restaurant that also offers takeaway food. They order a takeaway, and having got it and paid they walk outside, turnaround, come back in, sit down at a table, and proceed to eat their food, then offering the excuse that it is raining outside so they can't actually eat there. And maybe, if pushed, they'll say that they are waiting inside for a friend to arrive who might then buy a meal.

Absolutely anyone will realise that this is a blatant abuse of the restaurant. The customer is deliberately abusing the dual price structure that is offered, differentiating between those who use the services of the restaurant, and those who take their food away. The customer has tried to find a technical reason for doing so, and some pretty lame excuses for their behaviour, but the restaurant is absolutely right in saying the spirit of its charging structure has been abused by the customer, and they can therefore throw them out even though the customer purchased the food that they're consuming from it. Very obviously the customer is trying to free ride the system, and everyone would understand that this is unfair, abusive, immoral, and worthy of action, even if technically the food did leave the restaurant before being consumed.

As an aside, given that some takeaway food is VAT zero rated rather than standard rated, which it would be if served in the restaurant, the customer may also be pretty close to tax evasion, although their actions might possibly sit in the grey area in between the two so beloved of tax avoidance since technically the food will have been taken out of the restaurant before consumption takes place.

In this simple, and highly recognizable tale, the restaurant is, of course, a country like the United Kingdom. The customer is a tax avoider seeking to get round their responsibilities. The place "outside" is the tax haven to which the tax avoider sends their money for it to then be repackaged for a tax-free return straight to the United Kingdom, where the tax avoider then free rides the system.

This is what tax avoidance is: it is blatant abuse of our tax system by those with wealth, by multinational corporations, and by those lawyers, accountants and bankers who facilitate this process on behalf of those people, all of whom seek to free-ride the system by not paying the right amount of in the right place at the right time.

This is why tax avoidance is morally repugnant. Failing to use the right terminology; failing to understand morality; seeking legal justification for actions that cannot otherwise be defended; setting up completely artificial straw men as the basis for argument; failing to understand the reasons why a government taxes; failing to understand tax itself and despite that claiming that free riding the state is morally justifiable is in itself an unjustifiable act. Those are the accusations I levy against Toby Young.

That he is then seeking to capture the tax revenues paid by others to then pursue his own personal goals in setting up free school just adds insult to injury. But that is the side issue. Tax avoidance is the key one, and if he wants to debate, I am happy to at any time. But he's certainly going to have to raise his game.