

Why Toby Young is wrong on tax avoidance

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[Toby Young has responded to my blog](#) about his [ill informed comments made](#) when reviewing Nick Shaxson's book, *Treasure Islands*. Although he has tried, he says, to post a comment on this blog, for some reason it did not work, so I [posted the observation he made on his own blog for him](#). In responding I will ignore his pomposity: if he had not read my blog, so be it, I try to avoid his. He's not a person with whom I really wish to be acquainted. So let's stick to arguments. That is where Toby Young falls flat on his face.

First, he continues to insist that buying concentrated orange juice rather than freshly squeezed orange juice is only an act of tax avoidance. This is like saying choosing not to go to work is an act of tax avoidance. Or it is like saying that giving up smoking is an act of tax avoidance. Or that not spending to the maximum on your credit card is an act of tax avoidance. Now, Toby Young might undertake all his actions with tax in mind, but I sincerely hope he doesn't. And if he doesn't, then very obviously the act of choosing to drink concentrated orange juice rather than freshly squeezed orange juice is a much more complex issue, in which tax does play almost no part at all, especially given that the vast majority of people will be wholly unaware of the fact that tax has any consequence on the price and as a consequence it has absolutely no impact upon the decisions that they make. You cannot be accused of tax avoidance if you have no intention of avoiding tax.

That is also the case because Toby Young also entirely ignores the fact, which I pointed out quite clearly, which was that the government wishes someone to take advantage of the low rate of tax on concentrated orange juice, and therefore by choosing to buy it they are being tax compliant, and would never ever be at risk of having avoided tax in any remote circumstance. Toby Young tries to ignore this by simply by assuming that the government should not use the tax system to reprice goods and services. That, however, is not an argument, it is a statement of political opinion, and one that has not enjoyed significant support in this country for a very long time.

He then conflates his error in saying that choosing to drink concentrated orange juice is an act of tax avoidance, by then arguing that if this is acceptable it is also quite acceptable to set up complex offshore structures. This is apparently because if it is

common sense that it is right to avoid tax on orange juice then it is common sense that it is right to avoid tax on international transactions by the use of tax havens. Very obviously, however, since the argument that drinking concentrated orange juice is an act of tax avoidance is wrong this cannot be used as a premise for his justification for using offshore. In that case, his strawman, that because small-scale tax avoidance is ethically acceptable large-scale must also be so, also fails completely as an argument.

As for his argument that tax compliance is wrong because complying with the government's wishes is worse than assuming that legality is a moral standard, this does, of course, suggest that a democratically elected government has no moral authority. I would contest that. Clearly Toby Young thinks otherwise. What moral authority he would prefer?

Then let's move on to his argument that Philip Green, or anyone else, may use a tax haven structure to avoid tax despite the origin of their profits being within the United Kingdom. Toby Young says that this argument is remarkably similar to one Nick Shaxson uses in his book. I've no doubt it is. We work closely together. The logic of the argument is quite straightforward. First of all, we believe in source taxation i.e. that profits should be taxed where they arise. I am not, incidentally, making any argument with regard to Philip Green in the observations that follow - none of which relate to his companies. Our argument is a quite straightforward one, and that is that a UK-based trading operation has a duty to pay tax, in accordance with the spirit of UK law, because if it takes advantage of UK limited liability then in the act of incorporation it assumes an obligation to be accountable, both transparently through the publication of accounts, and financially through the payment of tax, to the authority that gave it the right to use limited liability with regard to its debt i.e. the right to avoid payment of those debts to people to whom they are owed in the event that it becomes insolvent through no fault of its own. The authority that granted that right was, of course, parliament, through the passing of the Companies Acts. The authority demands tax is exactly the same, and it used the same legislative to create that tax demand as was used to create the right of limited liability: it is the UK parliament. The rights and obligations counterbalance each other.

It would appear that Toby Young has little capacity to understand transactions beyond a contractual base, but here we are offering an implicit contractual argument as to why they there is an undoubted duty to pay tax. I hope he gets it. But I am not optimistic.

Of course that obligation has nothing whatsoever to do with the customer base that a company serves as Toby Young seems to imply: it is due to the democratic authority which represents the people of the United Kingdom who collectively grant, through the actions of Parliament, the right to trade in the United Kingdom with limited liability, and the right to have property protected in that circumstance. The duty to pay tax is to democratic society, no more, or less, because it grants the right to trade, it upholds property rights, and it demands tax in exchange. Undermine one of those and you

undermine them all, including the democratic process itself.

Argue to the contrary, as Toby Young clearly does, and you say that in practice Parliament has no means to enforce these rules because they can be undermined by tax haven states who have sold their legislative process to the financial services industry with the sole purpose of undermining the democratic rule of law in countries such as the United Kingdom. Support that argument and you then declare war on the process of democracy itself because you are saying that the financial services industry, through capturing tax haven states, can impose its will on the people of a country contrary to the will of the democratically elected politicians who represent the people of that state.

And yes, if the country in question has used its legislation to decide that a purpose of tax is to redistribute income and wealth from those with such attributes to those without them, then that is also an entirely democratically acceptable outcome of the taxation process. I accept this political choice. But try to undermine it when it is already imposed by statute of a parliament elected on the basis of universal suffrage by the use of tax avoidance and I consider that an unacceptable act, whatever the supposed legality of the acts involved.

In other words, I reject all Toby Young's arguments, which are based on self-interest and apparently nothing else.