

Funding the Future

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There was an extraordinary article in the Church Times last week. For those not familiar, this is the Church of England's newspaper read by most priests and those involved in church politics. The article was by Simon McKie who is a Chuch of England Reader in train-ing, a partner in McKie & Co (Advisory Services) LLP, and a former chairman of the Institute of Chartered Accountants' Faculty of Taxation. There's [an online version](#) - but it's behind a paywall. I was sent it by outraged church people.

I won't reproduce the whole article. I can't for copyright reasons, much as I am tempted to do so. But the following edited extracts give some flavour of what Mr McKie has to say:

TAX-AVOIDANCE is news, and, it seems, almost universally con-demned (Paul Vallely, 20 April). Peter Oborne, writing in The Daily Telegraph, said: "There are few more worthless specimens of humanity than tax accountants and tax lawyers." I must be doubly worthless, being both.

Tax-avoidance is not a significant threat to government revenues, and is not immoral, but rather is the sign of a morally healthy tax system. The unthinking heat raised by the cur-rent discussion risks doing real economic and moral damage to this country.

The complexity of the modern economic system demands a com-plex tax system. My edition of cur-rent tax legislation has 18,591 pages. No single person can be familiar with it all - least of all the MPs who vote it into law.

There can be no moral principle that forbids one from taking legal steps to avoid taxation where the charge to tax is based on such artificial constructs.

The very term "tax-avoidance" con-tains a conceptual confusion. It is a fundamental principle of our law that no right to tax arises until a state of affairs exists on which Parliament has imposed a charge; so if one arranges one's affairs so that a tax charge does not arise, one has not avoided tax: one has avoided enter-ing into transactions that would have resulted in a tax charge.

This is not quibbling. Underlying the condemnation of tax-avoidance is an assumption that the funda-mental right to property lies with the all-powerful state.

But surely, one might object, acceptable tax-planning can be distinguished from unacceptable tax-avoidance, and the latter taxed under the law. Many attempts have been made to formulate such a general anti-avoidance rule. All have failed. The last Labour Government concluded, like all previous Governments, that such a rule could not be made without creating such uncertainty in the tax system as to damage our economy.

This Government, however, is about to ignore the experience of many years in order to appease the public clamour, by introducing just such a rule. In this and other ways, the uninformed state of the public debate threatens substantial damage to our economy, undermining, in the longer term, the economic activity on which tax is levied and which pays for public services.

There is another danger. No Government department can resist the temptation to extend its power. In recent years, there has been a significant extension of HMRC's power over the taxpayer. The febrile debate provides an excuse for HMRC to extend its powers further.

For a long time, Britain has had a tax system in which the vast majority of taxpayers make honest returns. Paradoxically, tax-avoidance is the sign of a healthy tax system because it involves working within an accepted system of law and complying with its demands. In many other countries, illegal tax evasion is rife.

Where the tax authorities exercise arbitrary discretionary power, legal tax-avoidance is replaced by wide-spread tax evasion. The present over-heated debate threatens to allow a system to develop in which concealment and lying are an accepted part of civil life. Nothing would more surely corrupt public morality.

This, and much less he has to say, is quite extraordinary. This article shows how corrupted (or maybe, perverted) is the thinking of the tax profession. As one cathedral Canon put it to me:

All I can think to say is that if tax-avoidance 'is the sign of a morally healthy tax system' then by the same standard of ethic then 'adultery is the sign of a morally healthy social system' since neither is unlawful in this country.

The argument is, I think you'd agree, unassailable. McKie's is not. First (although I don't note it here) he argues that tax avoidance is only £5 billion a year 0 using HMRC's now discredited data. He does not, of course, acknowledge there is other data. Second, he implies but for tax avoidance we'd have tax evasion. He ignores the fact that we do have tax evasion - maybe £30 billion in HMRC's discredited count and £70 billion in my estimate.

But most of all - the idea that getting round democratically endorsed law - for that is what tax avoidance is - can ever be moral is simply corrupted ethics.

I have written a reply to the Church Times but doubt they will publish it - they almost

never give balance on this issue. I will publish it later.