

Tax avoidance is about seeking to defeat the will of pa...

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I had a Twitter debate yesterday with two people on tax avoidance. One was Peter Watt, the former general secretary of the Labour Party. The other was Mark Rowney, who describes himself on Twitter as "Former Lawyer at Clifford Chance. Now resigned to make the world a better place. Vice Chair of @BatterseaLabour". He worked on international finance, including tax structuring, at Clifford Chance.

[Watt argued](#) that tax avoidance embraces such things as paying money into an ISA or pension. Rowney went further. [His argument was as follows](#):

Imagine you're broke (not hard I'm sure). You've got a small amount of cash and you have to choose between food and clothes. You choose food. Guess what, you've engaged in tax avoidance! Sure you were thinking that you can carry on wearing your knackered jeans but can't go for much longer without food. However at the same time you've structured your spending activities in such a way as to reduce the amount of VAT you pay. You weren't consciously thinking of it but that is the effective result. Budgeting can have the unintended consequence of tax avoidance. I use this example to make the point that the act itself of tax avoidance (the actus reus to use legal parlance) is not immoral in itself.

I differed with them on Twitter, saying both arguments are simply wrong. My argument is that tax avoidance is seeking to get round the law. In my view tax avoidance is not and cannot be about doing things that are very clearly legally permitted, and even encouraged by parliament. So paying money into a pension or an ISA is not tax avoidance. Parliament specifically grants tax relief for both of them and you can't be avoiding tax if you do what parliament intends. But Rowney and Watt disagreed. Indeed, Rowney tweeted in response to such a suggestion:

Sadly, for a lawyer, he's way off mark. As Lord Nolan said [in the House of Lords in 1997](#):

Tax avoidance is a course of action designed to conflict with or defeat the evident

intention of Parliament.

I think that's pretty definitive. As a result, beyond a shadow of a doubt, paying into an ISA or a pension is not tax avoidance. Rowney and Watt and all who argue that way are just wrong. Legally wrong, even.

But what's interesting in that case is to speculate on why people like Watt and Rowney - and their friends from the far right like Mark Littlewood at the Institute of Economic Affairs - say such things. Well let's [go back to Watt to get the answer to this one](#). He said in his article (and remember, it's a former general secretary of the Labour Party saying this):

It is right that we clamp down on so called "contrived" avoidance schemes and the planned general anti-abuse rule should be welcomed.

But we also need to be honest that tax avoidance per-se is not wrong, morally or otherwise. And that the line between "good" and "bad" avoidance is not always clear. We should state clearly that while government must collect taxes so that it can deliver the services and protections that we expect them to, we understand that tax is a necessary evil and that people have the right to try and legally minimise the amount that they pay. Furthermore, any government should have a duty to minimise the amount that people and companies have to pay in tax and to spend the tax that it does collect wisely.

That's astonishing stuff, and explanation for why every sane person must still have some reasonable worries about what a Labour government might, or might not do. What he's saying - what a former senior Labour official is saying - is that tax is a 'necessary evil'. It clearly follows that he thinks that state services fall into the same category. After all, they're paid for with tax. That means he obviously health, education, law and order, defence, and the whole infrastructure of the state that make life possible in this country is to be despised. And wealth redistribution, and the correction of market failures, which are other major reasons for taxing, are also evil. And that's obviously why he thinks people should have the right to get out of paying for them - knowing, as I'm sure he does, that the option in question is only available to the rich, who'll subvert the social justice Labour should stand for but for which these two people clearly do not, at every opportunity.

Deep in a part of Labour is a hatred for much that is very good in this country - and for the people who provide the essential services on which we all depend. And that same part believes - like the far right - that only the private sector and the greed that motivates it provides the answers to well being.

No wonder people don't vote Labour. I would never vote for a candidate with such views - whatever the party label.

Ed Miliband has a long way to go to prove his party can be trusted with people like this in his party.