

Ernst & Young have problems with morality

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Having been out of action for a few days, let me return with an issue that seems worthy of comment even if from another day's headlines. It combines three rich themes: Davos, tax avoidance and the Big 4 accountants. As the Telegraph reported a day or two ago:

Responding to calls for companies to “pay their fair share”, Mark Otty, Ernst & Young’s managing partner for Europe, Middle East and Africa, claimed a moral tax code would not work as companies had a duty to pay the lowest rate permitted.

Speaking at the World Economic Forum in Davos, Mr Otty told The Daily Telegraph: “The only way you can resolve this issue is through a legal code. I don’t see how you can have any assessment on payments of tax other than what is in the statute. The simplest solution is to stop banging on about morality and change the law. ”

It's a shame that Mr Otty shows himself to be quite as ignorant as he obviously is on the legal duty of companies. For one in such a position you would think he'd know some basic law. But he doesn't. The fact is that there is absolutely no legal obligation at all for a company to avoid tax, or even reduce its tax bill. [I've explained why here](#), with reference to UK law. There is, however, a moral obligation imposed by law on directors to use their best judgement on the issue: something Otty ignores.

And as for a legal code - he can have one. It's called Michael Meacher's [General Anti-Tax Avoidance Principle Bill](#). If he'd like to support it he'll be welcome. But I don't think that's what Otty meant at all. What he also said was:

E&Y would not be changing its tax practices.

“It comes back to the law,” he said. “A company has responsibility to its shareholders, its staff and society.

“In days gone by it was a much easier argument. Now there is this morality test. For an organisation, it becomes very difficult ... you don’t know what the rules are or who the

arbiter is."

Poor Mr Otty: the instruction "do not cheat" is tough, isn't it?