

## The ethics of tax compliance

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When I began working on tax there were only two available descriptions of tax behaviour. They were tax avoidance and tax evasion. There was no language for trying to do the right thing with regard to tax. So the term tax compliance was created. I defined it as seeking to pay the right amount of tax, but no more, at the right rate, in the right place and at the right time where right meant that the economic substance of a transaction accords with the form in which the transaction is reported for tax purposes.

The term has been useful. Like a number of other innovations in the language of tax from the tax justice movement (e.g. secrecy jurisdiction, country-by-country reporting) it has slipped into common terminology without many of those using it realising its origin.

Recent changes in tax behaviour have, however, challenged the relevance of the term when used as an arbiter for appropriate behaviour, as was always the intention. For example, it has been argued that if Barclays could legally shift their profits to Jersey and Luxembourg, as their country-by-country reporting clearly implies they have done, then how could I argue they aren't tax compliant when doing so?

The answer is provided by the definition noted above. Barclays' behaviour may be legal: I do not doubt that it is; but compliance as I define it is not about according with the letter of the law. All tax avoiders seek to do that. Tax compliance is about acting in a manner consistent not just even with the spirit of the law but also in a manner that is 'right' (hence the last part of the definition). Philosophically this is a deontological concept. That means it is morally appropriate because it is right within and of itself regardless of outcome.

Now I would stress that I think that there are occasions when deontological behaviour is not necessarily appropriate, but with regard to tax compliance I do not agree and nor, incidentally, does HMRC, who define the tax gap in a way consistent with my reasoning. And yet I often hear senior tax practitioners from left and right of the political spectrum arguing that the demand that companies do 'the right thing' (the

'Hodge demand' as they seem to term it) is inappropriate if that means companies are deterred from coming to the UK or tax yield is reduced (although how that might happen is not usually explained).

These arguments are consequential: corporate bad behaviour can be justified by what are perceived to be acceptable outcomes such as what is believed to be more business and employment in the UK. I don't accept this. These ends do not justify turning a blind eye to the corporate abuse that supposedly permits them. All that blind eye delivers is less revenue, if not immediately, then eventually, as the justification spreads. But the consequentialists seem to ignore that because it is beyond their immediate horizons.