

Why isn't the "normal return" to work tax free?

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I have been asked to comment on the proposed reform of capital gains tax put forward by Dan Neidle, the lawyer who was formerly the head of tax at London legal mega-firm Clifford Chance, in which role he spent much time attacking those promoting tax justice, and who now runs his own think tank called Tax Policy Associates.

Dan Neidle's proposed reform [can be found here](#).

At the heart of it is a suggestion that the rate of capital gains tax should increase because it makes no sense that gains should be taxed at less than the rate attributable to work.

But then he suggests that the resulting rates would be much too high because (and I quote):

[Economic theory](#) says that, if investors put capital at risk, we shouldn't tax them on the "normal return" (i.e. the risk free return, broadly equivalent to bank rates). If we do, we [discourage investment](#) – the investor has done worse than if they'd put cash in the bank, but we're taxing it anyway.

We should instead only tax the "super normal return" (i.e. if an investor's investment pays off).

And therein, we see what Neidle is really doing. Superficially, he is saying rates must rise. Actually, he is saying we really should not tax most gains at all, meaning that yields from this tax will fall. He admits that in his paper that effective rates of tax will be very much lower than the supposed headline rate. I think we can assume that he thinks that a strength.

He is, incidentally, also using this line that "normal returns" should be tax-free when considering the taxation of profits and savings. Everywhere you look in Neidle's suggestions this seems to be his line on tax reform, except, of course, when it comes to income from work.

There, I cannot find a suggestion that the "normal return" to labour should be tax-free. Isn't that odd? Surely he has made some mistake? After all, there must be a normal return to work? Might we call it the median wage? Maybe it's the mean wage? And shouldn't we, then, expect that only returns above that sum be taxed, and very heavily in that case, to make good the shortfall?

I can't see Dan proposing that because it would seem from what he suggests that, in his opinion, only the "normal returns" of the wealthy should be tax-free, however large they might be, and however great the cost to society of granting this exemption is.

So, let me be candid and describe Dan as exactly what he has always been. He is a very bright and very well-trained lawyer who has often advanced the cause of the wealthy, as this proposal does. Everything he says should be read in the light of this.