

Introduction

It is often claimed by those who seek to justify tax avoidance and even tax evasion that these acts are acceptable because all tax is institutionalised theft. This briefing explains that this logic is wrong and that tax is always legal if charged by a legitimate government.

Tax is not theft

Those who claim that tax avoidance, and even tax evasion, is acceptable behaviour usually do so on the basis of their claim that all tax is institutional theft. This is not true, as logical argument shows.

First, no modern society has survived without a government. There have been states without an effective government, such as Somalia. But that society is failing, and at the end of the barrel of a gun. Assuming that this is not the wish of those saying tax is theft then government is a fact of life that they must accept.

Second, no modern society can survive without property rights that can be protected without resorting to physical violence. Failed states are characterised by property rights enforced by violence. Successful states are associated by property rights enforced by laws passed by governments which can be upheld in courts, set up and maintained by those governments. So, again, unless those saying tax is theft are suggesting that property rights should be enforced through physical violence they must support the right of government to establish, maintain and defend those property rights.

Third, if those arguing tax is theft do accept that governments establish property rights then they concede to government the right to establish just what the right to property is and that no one else has that right. All anyone else can do is establish that they have a right that can be evidenced to exist within the structure of laws that a government has established. But that in turn means that those who argue tax is theft must concede the right of the state to make law.

Fourthly, once that right has been conceded the state also has the right to make other law: including the right to levy tax to ensure that the system of property rights it has established is maintained by law. But this means that tax laws are created by the same process that creates a right to property: the two are indistinguishable. The right to property is the same as the right to tax: both are simple applications of law.

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Of course the legitimacy of both laws is dependent upon the legitimacy of the government: it is accepted here that for all practical purposes a government elected on a universal mandate without interference in the electoral process is legitimate.

In that case then it follows, fifthly, that property rights and taxes are equally legitimate.

Denying the legitimacy of tax is akin to the promotion of tax evasion

Property rights and taxes are not just equally legitimate: they are fundamentally related. For example, the right to enjoy residential property in the UK is protected by law. However, attached to that right to enjoy residential property is an obligation to pay property tax.

Likewise, the right to be paid income earned under a contract of or for services is also protected in UK law. That right does, however, have attached to it the obligation to pay the tax arising on that income.

In other words, property is not just a collection of rights. It is a collection of rights and obligations. It is not possible to choose the rights and deny the obligations: if you do you lose the rights.

This then defines tax evasion: it is an attempt to exploit the rights to property without accepting the resulting obligations of ownership. It is rightly illegal because it violates the laws of property.

The argument that tax is theft is then seen as related to tax evasion: the argument that tax is theft necessarily involves denial of the obligations attached to property.

In that case the argument that all tax is theft is shown to be a deliberate denial of the property rights that exist within democratic societies. Those who promote such argument are in fact inciting the infringement of the property right of another person – for government is in this sense a legal person acting as proxy for us all in community. In that context the statement is something more still, for it is also indicative of corruption, whether of ethics or conduct.

All of which makes the claim that tax is institutional theft a profoundly unattractive sentiment worthy of resounding condemnation by all who believe in democracy, the rule of law and society itself.