

Tax Ethics

Political and Individual

GEOFFREY BRENNAN AND GEORGE TSAI

Introduction

There are many specific normative questions that we might ask in connection to taxation – but in the context of this Companion, it seems appropriate to begin with two broad ones that seem to cover much of the relevant field:

1. What tax arrangements should a state or society put in place?
2. How should a citizen or taxpayer relate to an existing tax system?

The first of the above questions has been a major focus of traditional public finance/ public economics literature. (For the classic postwar treatment see Musgrave 1959 or, at a more practical level, the Report of the Canadian Carter Commission 1966. The more “utilitarian” approach to tax design, operating under the designation of “optimal taxation theory,” is perhaps best exemplified in the work of James Mirrlees. The classic reference is Mirrlees 1971. See also Mirrlees 1976 and Mirrlees et al. 2011. At a more practical level, one might consider The Meade Report 1978 as a crossover from the older to the newer approach.) In that setting, the standard practice is to set out various evaluative criteria for a “good tax system” – criteria which may refer to values or desired attributes such as fairness, efficiency, and simplicity, for example – and then examine what each of these criteria implies in the tax context. Of course, choice among alternative tax systems will also require some treatment of trade-offs between the criteria when their requirements conflict, as they generally will “at the margin.” Resolving such conflicts may require holding some view of the relative weight or lexical priority of the relevant values at issue.

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Moral and political philosophers have not traditionally been much preoccupied with such matters. But Liam Murphy and Tom Nagel's (2002) book *The Myth of Ownership* is a notable exception. That book will therefore occupy a certain amount of attention in what follows.

The framework of analysis that Murphy and Nagel adopt is broadly Rawlsian. And, as they put it, "taxes ... are ... the most important instrument by which the political system puts into practice a conception of economic or distributive justice" (2002: 3). The idea here is that taxation (of income, inheritance, and certain kinds of consumption) is the central way by which a government can try to reduce economic inequality. As we shall argue later, it is not entirely clear how the claim that taxes are primary in respect to justice is to be understood; but taken on its face, it seems to establish a close conceptual connection between public finance issues and a central issue in contemporary political philosophy: distributive justice.

In engaging question (1), there are two subsidiary questions. One of these lies squarely within moral philosophy – namely, the question of what underlying criteria of evaluation are appropriate. But that issue seems essentially independent of public finance matters. Whether one should adopt a utilitarian framework, or a libertarian one, or some form of Rawlsian "justice" approach, or something else again – and indeed whether these alternatives are at the same level of abstraction (and hence whether they are directly comparable) – seem on their face to raise issues that ought to be engaged directly. The upshots of different evaluative schemes for assessing the taxation system seem to be essentially downstream, derivative issues.

But that judgment may be too quick. A proponent of "reflective equilibrium" methods in ethics might think that spelling out the implications of these more abstract evaluative frameworks for practical questions (such as "what tax system is best") provides relevant "data" for assessing (and deciding between) the frameworks themselves. When we engage in the method of "reflective equilibrium," we begin with those specific moral judgments, or "intuitions," about which we are most confident and try to provide them with a comprehensive foundational normative conception. In turn, we may also amend our specific moral judgments when we are more confident about the comprehensive conception. And so on, with the process of mutual adjustment between the comprehensive conception and specific judgments, until reflective equilibrium is reached. Applied to questions about taxation, then, moral intuitions about tax systems are to be understood as having some independent epistemic authority – and these intuitions can be used to "check out" the plausibility of the more abstract normative foundations. The natural question to ask in this connection is whether there is any reason to think that our intuitions about *alternative tax systems* specifically are an especially good source of ethically relevant "data" as compared with intuitions derived from other applications in practical ethics.

It is plausible to have doubts as to whether our intuitions about alternative tax systems can be a reliable source of ethically relevant data. The ethical evaluation of tax systems requires rather detailed assessments of how different elements in the tax system relate, and of the effects of (often complex) tax instruments on the economic wellbeing of different individuals and/or of the "efficiency" of different instruments. For this reason, differences in moral assessments in the tax arena are as likely to reflect differences in beliefs about how taxes "work" as they are to reflect differences in fundamental

moral values. Accordingly, to treat intuitions about tax systems as an especially robust source of authoritative *moral* judgment seems problematic. And hence, tracing out the implications of different ethical foundations for tax policy seems unlikely to be helpful as a means of assessment of those ethical foundations. Accordingly, we do not follow that course in this essay.

We said that in evaluating alternative tax arrangements there are two questions – one of which concerns the ethical credentials of alternative evaluative schemes. The other is a domain issue – simply put, whether individual taxes (or even the tax system as a whole) are appropriate elements for an evaluative exercise. After all, one important exercise in applied ethics is the determination of the appropriate evaluand. Does the tax system, as such, qualify? To exemplify the problem, consider what Murphy and Nagel go on to say in the paragraph immediately following the quotation offered earlier:

A graph showing the variation in marginal tax rates or the percentage of income paid in taxes by different income groups, or the per cent of the total tax burden carried by different segments of the population is bound to get a rise out of almost anybody. (2002: 3)

This observation speaks perhaps to the “relevance” conception of applied philosophy (see Chapter 1, The Nature of Applied Philosophy): “getting a rise out of almost anybody” looks like a natural test of “relevance.” But doesn’t the quotation also expose a problem? For example, which of the three graphs that Murphy and Nagel mention (and a host of possible others) is actually the relevant one? Or if all are relevant to some degree, what relative weight should the criteria implied by the different graphs be given? Should we be concerned at all about the way in which *marginal* rates vary across income levels or is the relevant issue the way in which average rates vary? And should we be worried, for example, if the tax burden of the group of persons whose surnames begin with the letter B is higher than the burden borne by some other group? And if so, is it the per capita burden or the burden “for the group as a whole” that matters? Should the relevant differences between tax burdens (whether marginal or average or total) be assessed by reference to income or to consumption? Should it be *annual* income/consumption or *lifetime* income/consumption? Should it matter what the *time path* of income/consumption is, so that (for example) larger income late in life matters less than larger income earlier?

The problem extends. Does it make sense to evaluate the tax system independently of what the tax revenue is used for? Is it, for example, appropriate/desirable that individuals who use the roads more extensively should pay higher taxes than individuals who use the roads less extensively – other things being equal? Should publicly provided higher education be subject to fees or funded exclusively from general revenues? If tax revenues are used to fund extravagant schemes of predominant benefit to public officials, does this fact make a difference to the appropriateness of the tax system qua tax system? More generally, is the use of the revenue relevant to normative assessment of taxation – and if so how?

Furthermore, as with all public policy issues, tax matters raise procedural questions. To what extent is the “best tax system” that which emerges from (the most) appropriate political processes? If, for example, the tax system is endorsed by a popular referendum, with equal (rights of) participation by all, are there further normative questions that

have to be asked? Or if the tax system is chosen (perhaps after due public consultation) by a government that has a clear mandate to introduce certain tax “reforms,” is there anything further about the normative features of that tax system that we need to know? The force of this latter question is whether – or more generally to what extent – the proper object of normative evaluation is the tax system itself, on the one hand; or, on the other hand, the institutional arrangements under which decisions about the tax system are taken; or some appropriate mix of substantive and procedural considerations.

There is a special wrinkle to this “procedural” issue in the case of taxation. The tax system can be regarded either as the *product* of political processes (just like other public policy decisions) or as itself *one aspect* of those processes. The thought here is that the tax system determines the “prices” that different individuals have to pay in order to secure specific government programs. Changing those prices might change the pattern of support for different initiatives within the polity: in that sense, the tax system may operate as a necessary input into political decisions about other aspects of public activity. There is, for example, a strand of literature associated with the Virginia School of Public Choice (and James Buchanan in particular) that conceives of the tax system as an element of a “fiscal constitution.” (In this particular enterprise, Buchanan and his followers have seen themselves as developing the so-called voluntary exchange tradition in taxation theory; Wicksell 1896 and Lindahl 1919. See also Brennan and Buchanan 1980.) One implication of that characterization might be that there should be more restrictive processes for securing changes to the tax system than apply to other elements of the policy array. (After all, constitutions are typically regarded as restrictions on the kinds of things governments can do, and so in principle must be harder to change than ordinary policy decisions.) The basic point here is that, even if one thought that the primary object of evaluation was political institutions rather than policy outcomes, the tax system might well recommend itself for assessment under the former rubric (though perhaps focusing on distinctive aspects). The tax system might be seen as part of the rules of the political/fiscal game rather than (or as well as) an outcome of that game.

Before we leave our introduction to question (1), we want to say something a bit more abstract about the kind of question we take it to be. Specifically, it seems to us to be, first and foremost, an *evaluative* question. The interest here is in getting one’s evaluative judgments about taxes *right*. The implied distinction is between two distinguishable enterprises in ethical theorizing: correctness of evaluations and correctness of actions. Of course, evaluative judgments in the tax setting *might* have a direct action-guiding aspect – perhaps the addressee is in a privileged position in the policy determination process, such that she has a major influence on what tax system is to prevail. But in most cases, it will on our view be a mistake to cast the tax system as an object of individual choice. It might be tempting to think that the individual exercises choice when she decides how to vote on the tax system or on changes to it. But individuals do not choose electoral outcomes – still less the policies that are associated with them. Arguably voting is more like expressing an attitude than it is like exercising choice; what you get as a result of your vote depends hardly at all on what you do and almost entirely on what others do. The kind of direct connection between individual preference and outcome characteristic of genuine choices is essentially absent at the ballot box. For a fuller articulation of this point and its decision-theoretic implications see Brennan and Lomasky (1993).

In any event, appropriate evaluations have an independent status and a more general application: there are presumably better and worse answers to the question as to what properties of a tax system are ethically desirable. The individual's interest in having correct evaluative attitudes might be seen as independent of any capacity to implement them. So, for example, one's attitudes might properly extend to the evaluation of tax systems to which one is oneself not subject and/or which one has no entitlement to influence.

By contrast, question (2) – the ethical question in relation to individual taxpayer behavior – we take to be essentially an “action guiding” question: it tells the individual what she ought to do. On the face of things, it looks as if this question is dependent on question (1) to some extent. If, for example, the tax system is close to the best available *and* has been appropriately endorsed under the best available procedures, then there seems to be a strong presumption that one should comply with the system's requirements. But perhaps that is not so under at least some plausible circumstances. These issues we shall briefly address in the “Taxpayer Morality” section below.

The Tax System?

So far, we have referred to “tax arrangements” as a general category – and often, to the “tax system.” Implicitly, that usage implies that the object of concern is the “tax system as a whole.” There are, on the face of things, good reasons for that focus. If we are concerned with distributive justice or “efficiency” or liberty then it is the tax system as a whole that is the proper focus, not individual taxes. It would, for example, be a simple mistake to read off the distributive consequences of the tax system from the degree of progression of the rate structure of the personal income tax: the personal income tax may turn out to be of second-order significance as a revenue source. It could also be a mistake to conclude that capital income is relatively “under-taxed” because capital gains are lightly taxed under the income tax, if the corporate income tax heavily taxed retained earnings and if retained corporate earnings were the primary source of capital gains. The truth is that even the best tax system operates as *a mass of compensating errors*, with low rates of tax involved under one tax partially offset by higher rates of tax under another. Of course, actual tax systems are often far from “best” in this respect: the “errors” can often compound rather than compensate. But in either case, it seems that the tax system *as a whole* is the proper evaluand.

We shall take up various issues at stake in this perspective later. At this point, we want to emphasize that the “tax system as a whole” focus is not the only one possible. One can evaluate a specific tax policy in terms of its role and success in solving certain collective action problems, which arise when actions by individuals that are rational from the perspective of individual self-interest lead to outcomes that are less than optimal with respect to those individuals' interests considered collectively. One can also evaluate a specific tax policy in terms of its role and success in suppressing behavior that is thought to go against individual wellbeing, such as forms of consumption that are addictive and harmful to one's health. Or perhaps criticize such tax policy on the grounds that it is paternalistic to tax people so as to induce them to limit their consumption of such things as alcohol, tobacco, and foods with high fat and sugar content.

Taxes in general do three things. (1) They raise revenue for public expenditures. (2) They change relative prices between taxed and untaxed activities (more generally, between more heavily taxed and more lightly taxed activities), encouraging more of the latter and less of the former. (3) They change the distribution of income, wealth, and consumption across individuals and groups in the society. These features point to different purposes that taxes might serve in the overall policy agenda. Governments may wish to promote some activities and discourage others (and/or there may be normative justification for such promotion). Consider, for example, the carbon tax. The rationale for this tax is that carbon emissions have undesirable atmospheric consequences, which it would be better to limit. The whole point of the tax (so understood) is to reduce carbon emissions. Contrast this case with the case of the personal income tax. There is no presumption under the personal income tax that work is a bad thing, or that leisure ought to be encouraged, or that people ought to retire earlier, or that dependent spouses ought to remain out of the workforce. The personal income tax may have these effects – but they are typically regarded as incidental side effects of the process of raising revenue, and other things being equal ought to be ameliorated.

Of course, policy action can sometimes seem disingenuous in this connection. Gambling taxes (and government monopolies in the provision of lotteries) are often rationalized in terms of discouraging gambling (on broadly paternalistic grounds) – and yet the extensive reliance of some governments on such taxes for “ordinary” revenue-raising purposes seems to suggest that motives might be mixed. And indeed the normative considerations here are not entirely clear-cut. Presumably the fact that gambling taxes serve a double purpose – of discouraging gambling and simultaneously raising revenue for schools and hospitals – creates an extra level of justification. Suppose, for example, that a ban on gambling would create a similar overall level of gambling activity as a particularly heavy tax. Would the fact that there would be a loss of revenue involved in the ban option count as a positive argument for the tax alternative? And is it relevant that the revenue forgone under the ban would effectively accrue in some measure to underground providers of illegal gambling options?

In the first instance, it seems as if the use of specific tax instruments, such as excises on gambling and alcohol and tobacco products, ought to be assessed in terms of their success in achieving their specified aims (of reducing drunkenness or smoking or whatever) – and compared in that respect with other instruments that might be used for the same purpose (regulations of various kinds, or subsidies to alternative activities or perhaps forms of public advertising designed to change consumer preferences). But the “comparison” in question invokes dimensions beyond “level of activity” to include questions of “liberty,” procedural aspects, and questions of efficient response to policy by policy makers. Many of these issues are familiar from the discussion of emissions policy, for example (the comparison of bans versus re-tradable permits versus carbon taxes versus abatement subsidies etc.).

The issues at stake here pose a more general question. Just as in the case of gambling or moderating carbon emissions, there are alternatives to specifically fiscal instruments (taxes and subsidies) to achieve the policy objective, so, one might think, for policy objectives more generally. Perhaps in the limit virtually all of the functions of government might be pursued by non-fiscal means. Achieving that limit might require a bit of administrative ingenuity and here as elsewhere it probably does not help to think in

terms of limiting cases. The point is rather that over a very wide range there is a choice between greater or lesser reliance on budgetary operations in pursuing policy objectives. In providing national defense, for example, a government might rely on conscription (rather than paying market wages for all military personnel); or in providing savings for retirement, a government might mandate compulsory savings schemes rather than provide “social security” through the tax-transfer system.

The claim that “taxes ... are ... the most important instrument by which the political system puts into practice a conception of economic or distributive justice” (Murphy and Nagel 2002: 3) presupposes something about that choice – namely, that governments pursue their various policy objective *primarily* through direct provision funded by general taxation. The claim might be that this is so as a matter of empirical fact; or that this is something that optimal pursuit of economic justice requires. But it should be clear here that the normative aspect of the claim is significant. Even if governments *are* predominantly reliant on the budgetary system to put into practice their conception of justice, that fact could not pass as the end of the story. We ought to go on to ask whether justice itself *requires* the predominance of budgetary instruments and, if not, whether that predominance is somehow unalterable (or is the logical upshot of some feature of the system of justice that trumps other considerations.)

In exposing this set of questions, we do not mean to suggest skepticism about the virtues of budgetary operations as a technology of policy delivery. We can see many *prima facie* reasons for preferring budgetary means in many cases. Some of these are narrowly “economic.” A carbon tax ensures that the emission reduction achieved is secured from those producers/consumers who can reduce their carbon emissions at lowest cost; regulations typically do not do this (unless entitlements to emit are re-tradeable). But there are also “institutional” considerations. Budgetary operations by virtue of being revenue-using tend to be more explicit: the opportunity cost of different policy initiatives is more salient in the budgetary case and as a result budgetary operations tend to be more closely scrutinized through the political process. For example, sitting around the Cabinet table, minister A knows that his pet project can only get approval if the pet project of minister B does not. So A is more attentive to the weaknesses of B’s project and more likely to expose them in argument. Put another way, A and B can back each other’s proposals more readily if they are regulations that will not require a tax hike to accommodate both.

On the other hand, it is worth emphasizing that governments *in fact* do a very significant amount of their policy action through regulation and that this regulatory apparatus is deeply implicated in putting “into practice a conception of distributive justice” (Murphy and Nagel 2002: 3). One cannot read off the effects of government action on justice by reference to the budgetary system (still less the tax system) alone.

Nor is it the case that justice is *always* better realized by budgetary than by regulatory measures. The issues in relation to the justice of conscription for military service are not uncontested, for example. Many of the issues that economists typically deploy to extol the virtues of tax/expenditure over regulation are, for example, in play in the choice between fines and non-monetary forms of punishment: many commentators might well be inclined to think incarceration “fairer” than monetary penalties (and to think this even if the monetary penalties were income related).

It may be useful to summarize briefly what we take to be the main message of this section – which is that the focus on the “tax system as a whole” in discussions of tax ethics involves substantial presuppositions that ought not be allowed to slip entirely beneath the radar:

1. That focus assumes that the primary objective of taxes is to contribute to public revenue. More individuated taxes can also be used to promote specific goals (e.g., addressing a certain collective action problem or suppressing behavior that is harmful to individual welfare); and in those cases, though the revenue generated remains as a relevant second-order consideration, the primary function of the tax lies in discouraging particular activities (or perhaps encouraging alternatives).
2. That focus presupposes that budgetary operations are – and ought to be – a primary (perhaps predominant) mechanism for the pursuit of proper government objectives. It tends to background the role of non-budgetary policy instruments – both in fact and in terms of their normative credentials (compared with fiscal alternatives).

Having registered these presuppositions, we shall now focus on the revenue-raising function of the tax system. Here we take it that it is indeed the tax system as a whole that will constitute the appropriate object of normative concern.

Tax Justice and Horizontal Equity

One question that naturally arises in the assessment of tax arrangements is whether the tax system distributes the cost of collective activity “fairly” among taxpayers. On its face, this seems like an intelligible question and it certainly has traditionally played a major role in normative tax analysis. Typically, the question has been answered by reference to some conception of “ability/capacity to pay” and the classic treatment invokes the norms of “horizontal” and “vertical” equity. Horizontal equity concerns fairness or equal treatment across different members of the same income group. Vertical equity concerns fairness across different levels of income (or wealth). More precisely, horizontal equity involves the idea that individuals with identical ability to pay should endure the same aggregate burden of taxation; and vertical equity that individuals with greater ability to pay should endure appropriately larger burdens.

These notions immediately suggest several questions:

1. How is ability to pay to be reckoned – by reference to income or consumption or wealth (or all three in some appropriate combination)? Furthermore, what allowance if any should be made for ability/capacity to pay taxes, where that capacity is not exercised. If A chooses not to work but (had A done so) would have earned the same as B who actually does work, should B face a higher tax liability than A? Put another way, what allowance should be made (if any) for differential leisure, or perhaps more generally for the differential arduousness of work effort?
2. What is entailed by the tax “burden”? Is it the aggregate amount of tax paid – or might it include other factors? For example, if it is demonstrably more expensive

(or arduous in some other way) for A to pay an assigned tax burden than it is for B, should allowance be made for that fact in assessing equity (horizontal or vertical)? After all, it cannot be assumed that the cost of compliance with the tax system is negligible or that that cost falls equally (or equi-proportionately) across the tax-paying community. Additionally, if taxpayers adjust their behavior in various ways in response to the tax system, should the costs of such adjustments be reckoned alongside the tax actually paid?

3. Given that horizontal equality concerns “the equal treatment of similarly situated individuals,” what counts as “similarly situated”? For example, do family or household structures count? Should the tax system recognize that some people have children or other dependent relatives, or should this be a matter solely for the expenditure system?
4. More generally, is it really appropriate to evaluate the tax system in abstraction from the revenue use? In short, is the “tax system as a whole” a proper object of normative assessment?

Here, we wish to say a little about the third of these questions, because it is a core claim of the Murphy/Nagel critique that tax-specific norms (concerning horizontal equity, in particular) are inappropriate. Murphy and Nagel do not (and need not) deny that any practical system of justice needs an answer to the first two questions. When we assess the “maximin” criterion, for example, we need a workable notion of how to assess who are the “worst off” – or, in “leximin,” who is better off than whom for the purposes of justice. (We do not have to be strict egalitarians for Sen’s 197) question: “equality of what?” to demand an answer.) The issue is more one of whether tax questions are “normatively separable” – that is, whether it makes sense to address such questions independently of other aspects of policy, and in particular of what the revenue is to be used for.

Louis Kaplow (1989) points out that horizontal equity takes as its point of departure the distribution of income that emerges from prevailing market interactions. That is, the individuals’ income/consumption/wealth, which constitute the bases for taxation (and/or assessment of the system’s fairness), reflect the prevailing distribution of talents and opportunities, and the weight of different individuals’ demands for the various goods and services produced. But as Kaplow emphasizes, the role of any account of justice is precisely to call into question such distributions. For example, horizontal equity implies that if A has higher capacity to pay than B prior to taxation, A should have higher capacity to pay than B after taxation – that taxation should be such as to preserve the rank ordering of individuals’ “capacities” that emerges from those individuals’ market interactions. But why should that rank ordering be treated as sacrosanct? There does not, for example, seem to be any reason for thinking that rank-order preservation is in any way entailed by maximin.

Murphy and Nagel seem receptive to this argument; but their exposition places greater weight on the question as to whether assigning implicit ethical weight to the status quo distribution implies that taxpayers “own” the taxes those taxpayers give up to government for collective purposes, including transfers to others. As implied by the title of their book, a primary concern seems to be whether and in what sense individuals can claim any property right in the income that accrues to them. The implication seems to be that actual (and potential) tax revenues belong to the *citizenry*, not to the individual taxpayers.

Murphy and Nagel want to emphasize that pre-tax income is merely a convention rather than a morally independent baseline. They question the adequacy of the presumption of the existence of a stable baseline against which to measure the burden imposed by income tax. For as they point out, the existing distribution is itself a function of what government is currently doing. Government action changes the relative rewards to different factors of production and the relative demands for different goods (complements or substitutes for those that government produces). Accordingly, if the level (or composition) of government activity were to change, so would the distribution of income on the basis of which horizontal equity would then be assessed. Doesn't it then seem arbitrary to regard the ordering of persons by capacity to pay taxes (however measured) as presumptively authoritative – something that the tax system should disturb as little as possible?

Suppose individuals are ranked in some independent manner (alphabetical order of names, for example) and their levels of the distribuid (the thing whose distribution is an object of normative concern) are represented as a vector (C1, C2, C3, ...). A purely distributive ethics suggests that permutation of the levels of C across individuals should be a matter of ethical indifference. If individual 1 got level C3 and individual 3 got level C1, this wouldn't make any difference to the *distribution* qua distribution. In that sense, purely distributive criteria exhibit an "anonymity" property. The horizontal equity criterion violates anonymity. It says that whatever redistribution is undertaken ought to treat the rank ordering of market magnitudes as having some normative authority.

Horizontal equity is thus to be seen as a "process" norm – one that constrains how the collective should interact with individuals who have some independent economic identity. Whether such process norms have any genuine authority – and if so, how much? – is a question we shall not attempt to answer here. One thing we might observe, however, is that the horizontal equity criterion is not necessarily to be conceived as a tax-specific principle – and indeed would hardly be plausibly restricted in that way. It ought to apply no less to the transfer side of budgetary operations: individuals in similar "need" ought to receive similar payments. In this more general formulation, horizontal equity might be construed as the stipulation that redistributions that do not serve to advance distributive justice (e.g., that do not reduce inequality) are in themselves bad.

Murphy and Nagel seem to fear that any suggestion that the existing rank ordering has some normative authority is hospitable to "folk libertarianism." Construed as a psychological claim, we have no evidence on which to ground any attempted refutation. But viewed as a conceptual claim, we see no grounds for that anxiety.

Taxation and Liberty

Many economic libertarians argue that taxation is ipso facto inimical to liberty. In "Economic Freedom Indexes" of the kind produced (now annually) by the Heritage Foundation and the Fraser Institute, one element in the index is the size of the fiscal take – and countries with a low share of public spending in GDP (gross domestic product) such as Singapore and Hong Kong tend to score very highly on their levels of

Economic Freedom. The thought is that taxes are coercive: people are compelled to pay them. So the higher the level of aggregate taxation, the less freedom there is.

There is, however, an alternative way of thinking about taxes. Since they represent the cost of public expenditures that individuals vote for, one might think that taxes are no more coercive than the requirement that you pay for your groceries before you are allowed to leave the supermarket. It is, of course, true that each individual chooses his basket of groceries and so payment might be construed as individually voluntary in a way that is not applicable to collective activities. But James Buchanan (a self-described classical liberal) has developed a line of reasoning that makes the individual/collective distinction somewhat problematic. Buchanan's approach proceeds in two steps. First, he imagines a world in which collective decisions are taken unanimously. In that world, each can veto any collective scheme and in that sense all taxes imposed are entirely analogous to supermarket checkout payments. Second, however, he speculates that once such a unanimous process was in place, individuals would voluntarily renege from it. This thought is one important theme in Buchanan and Tullock's book, *The Calculus of Consent* (1962). Unanimity as a rule for collective decision making is, so the claim goes, self-effacing: everyone would agree to retreat from unanimity to a procedure for collective decisions that is less extreme. Basically, people *voluntarily* choose to abide by a constitution in which something other than unanimity is the decision rule for collective decisions. Buchanan and Tullock speculate that simple majority rule would be unlikely to be the "optimal" decision rule but their specification of the optimal rule involves that which emerges under unanimously sanctioned constitutional processes.

Of course, the chosen constitution will not be ideal: individuals will trade off the losses imposed on them by collective decisions against the benefits they enjoy from collective decisions that favor them. On this logic, collective processes under the best feasible constitution will have the same normative status as market processes. Markets too will involve "externalities" of various kinds, and individuals will have imposed losses on them via markets, to which losses they have not directly consented. But on the Buchanan view, markets will enjoy the same constitutional endorsement that political processes do: the optimization exercise that individuals will engage in at the "constitutional level" will predictably involve securing the optimal mix of market and political "failure"/success.

On this view, taxation cannot properly be viewed as coercive unless the imposition of those taxes involves a violation of unanimously endorsed constitutional rules. Put another way, the mere size of aggregate tax revenues cannot be used as any sort of index of coercion: everything hinges on the extent to which that aggregate tax liability emerges from political processes that are themselves widely endorsed. As Buchanan puts it, politics should be viewed through the "exchange" paradigm; and taxation should correspondingly be thought of in terms of "fiscal exchange."

None of this should, of course, be construed as suggesting that taxation can never be coercive or that liberty is not an important element in the assessment of political institutions (and their fiscal aspects). It is simply to insist that evaluation of budgetary operations in terms of liberty is not just a matter of size – and indeed that it's not clear how much, if at all, "size" as such comes into it.

Taxpayer Morality

So far, we have been considering a range of normative issues concerning tax arrangements, policies, and practices at the social-political level (that is, the level of a state or political society). In this section, we consider normative issues concerning individual conduct from the perspective of a taxpayer.

The obligation to pay taxes might be viewed as part of a general obligation to comply with law. Is there any reason to think that tax law might be special in this setting? For example, when Raymond Hunthausen (the Roman Catholic Archbishop of Seattle) refused to pay half his taxes in order to protest the US stockpiling of nuclear weapons (and specifically the Trident missile program), was he behaving in any way differently from other conscientious objectors? We think not. That is, Hunthausen's refusal to pay legally required taxes might be viewed under a similar lens as the civil disobedience campaigns of Gandhi or Martin Luther King.

But tax obligations are nevertheless somewhat distinctive. For one thing, the distinction between tax evasion and tax avoidance makes the nature and extent of our tax obligations harder to pin down. In some cases, of course, securing tax avoidance (refraining from engaging in the taxed activity) is the central point of the tax. However, in those cases where the primary point of the tax is revenue raising, the distinction between the letter of the law and the spirit provides a niche for taxpayers to reduce their tax liabilities in ways that may not be strictly illegal. Taxpayers exercise discretion about how meticulously they observe the tax law and how they respond to vagueness in what the law requires.

Such ambiguity can be present in private contracts and there the same issues might be thought to arise. Is it morally permissible to exploit every such vagueness to one's own advantage? Does legal permissibility set the bounds for moral permissibility? Perhaps here, the distinction between moral impermissibility (which concerns the rightness or wrongness of one's *action*) and moral vice (which concerns admirableness of one's *character*) appears. Perhaps there are actions that morality does not strictly rule out, but which nevertheless fall well short of what even minimal virtue requires.

It certainly seems plausible that such is the case with certain kinds of tax liability. Suppose the taxes have been legislated under decent democratic procedures. Suppose that they score tolerably well under criteria of tax ethics (they distribute the cost of public activities in a tolerably fair and efficient manner). Suppose the revenue is to be used for decent public purposes – for schools and hospitals, say. You qua taxpayer cannot help but be aware that your paying less tax means either that someone else will have to pay more or that children will receive a less satisfactory education or there will be fewer beds for sick patients. Is it permissible for you to pay less simply because you can get away with it?

One consideration that seems relevant here is what other taxpayers are doing. To the extent that folk notions of tax fairness (as captured in the horizontal equity criterion, for example) have some authority, you might think that you should evade/avoid pretty much to the extent that everyone else does. You might see yourself as under no obligation to pay a higher share of your income than other equally situated people actually do. It seems *unfair* to have to contribute when others are not contributing. Or at least it seems unfair to be required to pick up a *greater* share of the tax burden

(than you would otherwise) because others are unwilling to take on theirs. That is, you might reason: “Why should I have to do more because others aren’t doing their share? Why should I have to take on additional costs to cover *their* share? Shouldn’t I just have to do my fair share?” These questions intuitively express the idea that one’s tax demands should not increase just because fewer and fewer other people comply with their tax requirements. The questions reflect a worry about how demands of taxation are *distributed*, a worry that makes sense given the understanding that taxation serves a shared, cooperative aim: promoting the good *together with* fellow citizens or members of society. Of course, no one will prevent you from making voluntary donations to public schools and hospitals, and if you choose to do that through the tax system by paying more than you strictly need to, you might well be thought to be doing something admirable. But you are not under any strict moral obligation to make such donations. Or so the argument might go.

To the extent that appeal is to be made to the “everyone else is doing it” argument, you should of course take the trouble to be sure that everyone else is indeed doing it. But providing the judgment is accurate, the tax context might be distinctive in giving some legitimacy to this “everyone else” appeal: securing even rough tax justice requires that each takes the practices of others as normatively relevant for herself.

If the tax system is inequitable, or public expenditures are for unsupportable purposes, or the political institutions are seriously defective, then the normative requirements for paying taxes at stipulated rates are weakened. But these weaknesses seem to be grounds for Hunthausen-like conscientious objection, not for aggressive tax minimization. It is not especially persuasive to cast tax evaders as freedom fighters! (For literature on tax compliance, see McGee 2012 and Andreoni, Erard, and Feinstein 1998.)

Conclusion

In this chapter, we have tried to highlight normative issues of taxation that have generated significant attention as well as issues that have been relatively underexplored by philosophers and economists. Unlike, say, the topic of state punishment or distributive justice, the topic of taxation has not generated in the literature two or three major positions among those writing on the topics. Indeed, one noteworthy aspect of the philosophical literature on taxation is its rather fragmentary character – the fact that debates in the area tend to cluster around relatively specific issues. By raising and exploring what strike us as central normative questions that bear on social policy and individual action, we hope to have provided readers with a sense that issues in tax ethics are of considerable philosophical interest, and that much more work remains to be done on them.

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