

\*WEE\* ON THE DRY SIDE

265  
~~265~~

## TAX AVOIDANCE & CIVIL DISOBEDIENCE

*John Hyde*

I know why governments must uphold the law but I, nevertheless, have some sympathy for the two West Australian businessmen convicted of defrauding the Commonwealth Taxation Office of some millions of dollars. They committed the alleged offences (the convictions are subject to appeal) at a time when attitudes to tax liabilities were different from those prevailing today. I remember that I once felt little obligation to pay 'unreasonable' taxation and avoided what I legally could.

The anti-tax-avoidance campaign is being driven by the misdirected envy of the idle rather than by rational assessment of the needs of the state and I suspect the state is making examples of a few people. I lack the talent and the enthusiasm for accumulating wealth to put the effort into earning millions but I don't envy multi-millionaires any more than I envy top sportsmen. They both have innate, and therefore unearned, talents, but they also pay for their millions and their trophies by dedicating their lives to single goals. What is more, I know that if talent and effort are not rewarded, the whole economy will wind down.

There was a time when I gave relatively single-minded attention to building the family fortune and to meeting the school bills and other expenses of a young family. At that time I 'knew' with a passionate certainty that my hard work justified my relatively high earnings. I resented having to subsidise people who had pursued other goals---leisure, high living, sporting prowess, political power or the quiet life.

I can't say whether the work ethic or greed drove me, but I once worked quite hard. During seeding, when the soil was dry enough to crop, my brother and I worked through every second night---that is, 36 hours on and 12 hours off. During harvest, any day when I did not man-handle fifty tons of wheat to the siding was not a good day. One day, in a careless moment, I left my arm hanging around a spinning shaft and have since got by without it. On another day my brother lopped three fingers. We put up with our share of bad seasons and enjoyed our share of good ones.

Of course, so much hard work put us into the higher tax brackets and ten shillings or more tax in the pound felt like theft. We spent hundreds of hours on tractors travelling in

decreasing circles toward the middles of paddocks and to while away the time I spent hundreds of hours working out how to beat the tax commissioner. We used the legal loopholes to capitalise income and like so many others, including Prime Minister Fraser, we set up a 'family trust' and distributed income to our children thus reducing our families' average tax rates. And we did not feel that we were cheating.

In those days tax avoidance was a family duty and it was good clean fun. The game had one over-riding rule: never by word or in writing say anything that is untrue. I enjoyed it, and found the tax-office people honourable opponents. I felt no obligation to pay the tax I avoided---the issues were legal, not ethical. In fact, the least ethically acceptable way to avoid tax was to work less. It remains the most economically damaging form of tax avoidance.

Of course I accepted that some tax had to be paid to preserve a civil society, and I approved of payments to the needy and still do, but I was paying more tax than people who chose to work less hard than I, and resented it. Government waste and the injustice of taxing effort in order to subsidise idleness were all the reason I needed not to treat government as a charity. At the time I gave no thought what-so-ever to what would happen if avoidance became so widespread that the tax system broke down. Nor did I think about the moral implications of deficit budgeting---they were post-Whitlam worries. It may not have changed my attitude if I had.

Like most games with high stakes, tax avoidance got out of hand. During the 1970s the unwritten rules were bent and broken; schemes became so effective they completely removed tax liabilities; and as more people moved into higher tax brackets the effort devoted to tax avoidance became more profitable. Relatively sophisticated tax avoidance schemes became normal and, much more seriously for the revenues, small time tax-evasion became endemic. Whatever the law said, people felt they were defending 'their own money'. The tax base started to fall apart as people selectively moralised about other people's tax avoidance.

Later, when I was offered the opportunity to strip the family company of its assets and sell it with a tax liability, although I had not then heard of the bottom of the harbour schemes, I did reject the opportunity. But I rejected it more because the price told me that something illegal was likely to happen to the company, than from any ethical compulsion to pay the assessed taxes.

At the time when I set up the family trust I met a draft dodger. (He was the weighbridge attendant at our wheat siding.) He said something like: "I have no moral objection to war, if I did I could register as a conscientious objector. I am not afraid that I will be killed, the chances of that are not high. My position is simply that my life is mine and I don't want to spend it in the army when there is no immediate need for me to do so and others are getting out of it by lying about their health". I pointed out that, though conscription might be an unnecessary, and therefore unjust, way to fight the Vietnam war, if he did not go, someone would be drafted in

his stead. And he responded: "Then let him do what I have done".

The parallels between draft-dodging and tax-dodging are obvious but parallels alone do not tell us at what point individual citizens may avoid discriminatory and unjust impositions which are nonetheless legally imposed. Perhaps the question is academic because at the point when people feel that impositions are unjust they disobey them. And when many people disobey the law, it is changed. High taxes, like peacetime drafts, have always been dodged. I suspect they always will be.

ENDS