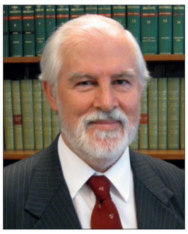
COMMENT: INCOME TAX

The OECD, the EU and Tax Fraud – but Whose?



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'Tax fraud' is a commonly used phrase but it has multiple possible meanings. It may mean fraud by taxpayers upon the Revenue, it may mean fraud perpetrated by the Revenue upon taxpayers and it may also mean fraud about taxation perpetrated upon the public by the impositions of politicians and their advisers, such as OECD and EU bureaucrats.

The OECD and EU and their numerous academic fellow travellers have, since 1998, been engaged in perpetrating upon their putative masters in the G20 (and the peoples whom they are paid to serve) a massive intellectual fraud embracing economics, law, politics and morals.

The fraud is that universal graduated income taxes and the like are efficient, morally just and economically desirable.

An Economic Fraud

It is a fraud against economic thought to pretend that income tax is necessary and that every country needs to assist every other country to levy such taxes.

Income tax is really three taxes. It is a tax on what is produced as revenue by the three factors of production - land, labour and capital. Therefore, an income tax is fundamentally, from a national accounting point of view, a combination of taxes upon the wages of labour, upon the profits of physical capital and upon the rent to land in its economic sense, that is all natural resources.

But the three factors of production behave in different ways when their incomes are taxed.

Labour may slack off, decline to work overtime, emigrate or stop breeding. Thus, Scottish economist Adam Smith deplored the taxation of working families and denounced sales taxes and excises which raised the cost of living and diminished the future supply of 'useful labour'. It is no coincidence that the collapse of European birth rates has marched side-by-side with the increases in its value-added taxes which bear so harshly upon the cost of living for families.

Capital stock may be allowed to run down and not replaced while investment in physical equipment may be made offshore. As Adam Smith recognised, a merchant is a citizen of the world and, in this day and age, so too are industrialists.

Thus, the optimal rate of taxation on labour income is zero and the optimal rate of taxation on capital income, the returns on produced means of production, is also zero. However, as the Physiocrats, the founders of economics, and Adam Smith realised, a tax on the rent of land cannot be shifted, does not discourage the production or availability of land (which is God-given), and has no disincentive effects. Therefore, there is no limit to the optimal rate of tax on land income, short of 100 per cent.

The OECD knows this and states that taxes on immovable factors of production are to be preferred to taxes on mobile factors of production. The logical consequence of the OECD acceptance of this truth is that only land value taxes should be implemented, and countries should stop wasting time trying to tax mobile capital.

Yet the OECD is now imposing upon the rest of the world the fantasy that income tax is an economically efficient tax and, to make it work, all countries need to co-operate in the enforcement of extra-territorial collection of income taxes.

This is simply a fraud upon economic theory and the history of economic thought.

A Legal Fraud

It is also a legal fraud to pretend that countries are any under any moral or legal obligation to assist each

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other to collect the other's taxes.

The first duty of a sovereign is to protect his subjects and secure them in the enjoyment of their property. It is not the job of sovereign A to make his subjects assist sovereign B collect taxes from sovereign B's subjects. If income is generated in country A, why should sovereign A assist sovereign B levy tax upon that income, even if it is accruing to the subjects of sovereign B? And why should sovereign A force his subjects to waste their time, resources and money collecting taxes for sovereign B? In international law, there is not, and never has been, any standard or norm that one country should do so. Yet the OECD pretends that new so-called 'international standards', dreamt up by unelected officials, are somehow creating new norms in international law. No-one is legally obliged to sign up to such norms. They are an affront to the sovereignty of any country.

Perhaps the most insidious thing about the so-called OECD international standards is that the OECD is taking it upon itself to tell sovereign countries and their citizens or subjects what their domestic legislation should be. Company law, trust law, banking law, search and seizure laws must all be refashioned to confirm to the dictates of unelected and foreign OECD 'fly in, fly out' global tax enforcers, regardless of any domestic constitutional or legal considerations. In that regard, the OECD's latest victory is its promulgating of the so-called 'Common Reporting Standard' (CRS) which amounts to a worldwide attack upon privacy as a human right. It is a perversely strange paradox that, just as the European Union is promulgating a General Data Protection Regulation (GDPR), upon the private sector, the EU and its accomplice, the OECD, have been insisting that every subject or citizen of be stripped of all financial privacy in a world-wide 'Stasiland'.

This radical OECD legal doctrine is the complete antithesis of European constitutionalism, whether looking at the English common law or Continental legal systems. Medieval legal philosophy, which flows through John Locke and other philosophers and is still reflected in constitutional arrangements, including modern manifestos about the Rights of Man, opposed absolute State power and to it we owe the idea that government exists for the governed, not the other way around. The subject owes allegiance to the Crown and the Crown has a duty to protect the subject and administer justice according to law and custom. Thus, the United States has a constitutional guarantee of the right to privacy. None of these constitutional considerations seem to be of any concern to the OECD.

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A Political Fraud

One has to hand it to the OECD. They have been successful since 1998 beyond, I suspect, their wildest dreams in their political campaign to 'persuade' the world that 'harmful tax competition' (as they define it) should be eliminated.

This is a war being waged by the OECD against developing countries and offshore financial centres by political means based on deceit.

Some years ago, in Canberra, I put to an economist from the OECD the question that the OECD knows that taxes on immobile factors of production are more efficient than taxes on mobile factors of production, asked why it therefore did not advocate land value taxes in Europe instead of trying to chase income from mobile financial capital around the world? The answer was that it would be politically very difficult. To which I responded that it seemed the EU was blaming other countries for the

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natural results of their own tax policies.

This confession exposes the intellectual bankruptcy of the OECD and EU agenda. The EU governments dare not tell their citizens the truth - that their social security schemes are demographically (and hence fiscally) bankrupt. Yet they dare not touch the massive explosion in land wealth fed in part by the European Central Bank (ECB) policy of near zero interest rates. As all economists know, zero interest rates imply land values heading towards infinity. Since the 2008 global financial crisis, the OECD and EU countries have engaged in a massive wealth redistribution to the rich and yet they claim that offshore financial centres are somehow to blame for it.

Thus, the political fraud is that the OECD pretends to be serving ordinary taxpayers while condemning them to ever higher VATs and income taxes because it refuses to condemn the non-taxation of land and the massive speculative increases in land values created by its fellow bureaucrats at the ECB. The attack on offshore financial centres is simply deflection. Pretend to the poor suffering working taxpayer that he will get tax relief if only mythical billions overseas can be recovered, while never mentioning the redistribution of wealth in favour of landholders (at the expense of the young workers) being carried out by governments and central banks.

Inevitably, high taxation of young workers supporting families means people deliberately have fewer dependants and helps drive down the birth rate, an effect which is added to by the regressive nature of value-added taxes (which treat the raising of future taxpayers as a form of taxable personal consumption, in contrast to VAT refunds for capital investments). European countries, having over-taxed their native populations to the stage where they no longer reproduce (much as the population of the Late Roman Empire had ceased to reproduce) are now facing demographic and fiscal implosion.

This is an unpleasant truth which no Euro politician currently in power wishes to admit to an overtaxed populace – much easier to blame others!

A Moral Fraud

Most importantly, the OECD war against tax competition and financial privacy is a moral and philosophical fraud. The philosophical fraud is that all property rights are derived from the State and therefore are created by the State, which may hence demand whatever it likes of the property of its citizens. Such a proposition is opposed to natural law, which declares that a man has a natural moral right to what he creates

The apparent agenda of the OECD and EU is to rest on the concealed pre-supposition that there are no natural rights to property, no natural rights to the fruits of one's labour or to the products or profits of one's exertions, but rather that anything you are left with is simply an act of grace or favour on the part of the State. Law is seen not to proceed from God or Nature but solely from the State. This is a form of totalitarianism. Yet the whole history and genius of European civilisation is opposed to it. The medieval view was that the King should live off his own property, that is, off his rents and leave the subject alone. In medieval Europe, it was taken for granted that what the subjects produced was theirs, and so taxes were described as 'aids subsidies or grants' passing from the subject to the Crown. Taxes were seen as a way of helping out by loyal subjects for the common good, caused by some necessity. This tradition is deeply rooted in the history of the common law. Taxation statutes have historically and correctly been given a very strict construction against the Crown on the basis that if the subject has not consented explicitly through his representatives to contribute of his own to the Crown, then the subject has not bound himself to pay.

But these ancient and salutary principles have been forgotten by the ignorance of those who ought to know better, and laws, governments and institutions are now betrayed by la trahison des clercs - the treason of the clerks in the OECD and EU.

Morality and justice do matter – indeed, they ought to be always and everywhere regarded as supremely important. However much of what is paraded by the OECD and EU and their academic fellow travellers as tax morality or tax justice is anything but.

The war being so successfully promoted by the OECD and EU against developing countries and offshore financial centres should be seen clearly for what it is – 20 years of war upon the most basic of human rights, upon national sovereignty and constitutional government and a fraud of the most wicked and evil kind, precisely because it is so well and cleverly dressed up in all its sinister counterfeit of true virtue and righteousness.