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Taxation as Theft for Individuals and Corporations

Lauren Lee[1] and Alec Bishop[#]

[1]Busan Foreign School, Republic of Korea
[#]Advisor

ABSTRACT

The existence of any government, and thus arguably, of any organized society, would not be possible without one thing. This one thing is money, which, when taken by the government, is called tax. The first recorded taxes date back to ancient Egypt. Taxes must be paid in order to fund the activities of the government, whatever they may be. Without money, governments would have no continued source of revenue by which to operate. Due to the assumed necessity of government and the functions they perform in today's world, the issue of whether or not tax is a form of theft is generally considered irrelevant, and thus ignored. It is often believed that taxation is simply necessary, so therefore it must not be morally or legally stealing. This paper will examine the critical yet complex issue of whether or not taxation is in fact theft – or something taken without consent – through the dual consideration of both individuals, on the one hand, and multinational corporations, at the other end of the spectrum. The paper will perform an analysis of "consent," without which taxation must be considered theft, into three elements: whether or not taxation involves *choice*, whether it is an *informed* decision, and whether *control* over the tax exists.

Introduction

A determination of whether tax is theft requires an examination of the unique characteristics of the tax and the taxee, and must go beyond the individual level. Today's world is one of huge nations and limited personal mobility options and complex webs of tax schemes taking up thousands upon thousands of pages (Watkins). While organized tax systems existed from around 3000 BC, corporations are a relatively modern invention, yet have historically held most of the world's private wealth ("Short"). Indeed, the world's very first commercial company, the East India Trading Company, founded in 1600, at one point ruled over a quarter of the world's population, had an army bigger than the British Empire, and taxed their colonial subjects (Roos). Thus, in order to fully answer the question of whether tax is theft, it is necessary to consider the perspective of both the ordinary individual on one end of the spectrum, and the multinational corporate conglomerate on the opposite end. Not surprisingly, when this approach is taken, we come up with two very different answers.

Firstly, the terms "tax" and "theft" must be defined. A tax is a "mandatory payment collected from individuals and corporations by a government entity to fund government activity" (Gordon). This paper will apply the legal definition of *theft* as "a criminal act in which property belonging to another is taken without that person's consent" (Gale) and the general definition of stealing from Cambridge Dictionary, which is: "to take something without the permission or knowledge of the owner and keep it." A tax is assumedly taken with the knowledge of the person being taxed, so the key to whether or not tax constitutes theft rests on one question: whether or not the person taxed has given consent to the government to take the tax. In other words, if a person, or corporation, has consented to the tax, it is not considered theft.

Consent is not simplistic, and a nuanced examination must be made in order to make a determination on whether it exists in the case of taxation. Specifically, the following three questions must be considered: 1)

Does the taxee have *choice*: is there a way to opt in or out? 2) Is the consent *informed*: is there enough transparency and clarity to make it knowable and understandable to the taxee? 3) Is there *influence or control*: to what degree does the taxpayer have power and control over the creation of the tax?

After an appropriate deliberation on these three determinate questions, because ordinary individuals fail on all three counts, it can be reasonably assumed that the conditions for consent have not been met; thus, taxing the ordinary individual is generally theft. In the alternative, because large multinational corporations – and uber wealthy individuals, who take on the characteristics of conglomerates – answer affirmatively on all three counts, consent can be reasonably assumed. Thus, taxing large conglomerates generally is not theft. However, I will conclude with a final caveat: if the government ***spends*** taxes in ways that are unethical or disagreeable to the individual taxee, this could, in effect, negate consent regarding the ***collection*** altogether.

Choice

First, consent does not generally exist where there is only a mandate. Most laws are non negotiable requirements that are forced upon the citizens; tax laws are generally not an exception to this rule. On the other hand, taxes pay for the government's expenses, including such things as highways and infrastructure, education, welfare, health care, police, defense and military, and even license and passport services. The counter argument and complexity arises from the fact that most citizens derive at least certain benefits from the government, which means, from taxes.

What is most relevant is whether people have a choice to opt out of the tax - and likewise of government benefits - should they change desire. This could be on a universal level or individual tax level. Though most people would agree to pay for some amount of tax for the sake of having an organized civilization, some people would undoubtedly contradict tax laws and refuse government benefits in return, including those living "off the grid" in remote locations. However, such individuals do not have any way out of paying taxes required. They are required to pay regardless of whether they utilize any benefit from them at all.

However, choice could also exist if a person were allowed to move to another location with a tax system they did agree with – i.e. if a person could "shop" for countries just as they shop for the best deal on a new car. But in today's modern world, nations provide strictly limited opportunities for foreigners to enter and live within their borders. Additionally, due to poverty and political situations, a vast majority of the global population have no reasonable mobility at all.

This is where corporations differ dramatically from ordinary people. Multinational conglomerates are often able to "shop around" and determine the most advantageous location for incorporation, banking, and doing business. The Panama Papers revealed how American-based multinational corporations were able to avoid paying taxes on $2 trillion of income, and how many corporations and wealthy individuals have bank accounts in tax havens like Samoa, Bahamas and the Virgin Islands (European Council). This demonstrates the relative ease of which large corporations have a definite choice in which taxes they submit to.

Informed

Secondly, in order for a thing to be agreed to, it must be knowable, discernable, and clear. The next consideration then is the content of a specific tax code. This is where modern taxation is drastically different than in ancient times. In Korea, the UK, the US, and most other modern nations, tax codes are thousands of pages of dense, opaque, complex legalese and are constantly being revised. In 1752, the UK's tax code was 80 pages; today, it's the longest in the world at over 17,00 pages, triple the length since 1997 (Hyde). It can be conceded that virtually no ordinary person could possibly be informed about all of the tax code.

Only a few legal and accounting experts who devote their career to studying tax laws and regulations could possibly understand and keep up with them, and these few experts are too expensive to be accessible to ordinary people. Lawyers at large law firms in the US, for example, often charge between $1,000 and $2,000 per ***hour*** (Rubino). An American minimum wage job would pay less than $2,000 for an entire *month*, and the wealthiest 20 people in the US have more wealth than the bottom 50%, or 152 million people combined (Robertson). However, corporations and uber wealthy individuals with billions, or even trillions of dollars in wealth, are easily able to pay such fees as a cost of doing business. By paying experts to do the necessary research and to follow each loophole or tax saving possible, they are able to save millions and in some cases, pay no taxes at all.

Furthermore, there is a compelling argument that an ordinary person, if they knew and understood the loopholes, would never agree to such a system. For example, 55 of America's largest companies didn't pay any income tax in 2020 (Furhmann). The average American family making between $36,000 and $69,500 paid $15,748 (or 22%) in taxes in 2018 (Furhmann). On the other hand, the 55 companies made over $40 billion in profit, which would have been $8.5 billion collected in taxes (at a 21% rate) (Furhmann). Instead, they were given $3.5 billion for tax *rebates* in federal monies (- 8.6% rate) (Furhmann). There is no logical reason for anyone to agree to pay more of a share than wealthy corporations, and certainly not agree to paying them in some cases. This is especially true given that the guiding principle behind most tax systems is a progressive tax system (Hinders), wherein, as incomes increase, tax percentages increase. It would defy both logic and self interest to agree to a tax system that is instead regressive.

Control

Finally, if a person has influence and power over the creation of the taxes, consent exists. If a person was empowered to write out the tax code that they would have to follow, such a situation could not be theft. As noted above, however, typical tax codes are thousands of pages. In many cases, there are corporate forces that contribute to this complexity. Multinational conglomerates, industry representative groups and wealthy individuals spent over 4 billion dollars in the US alone last year to convince lawmakers to pass laws that benefit them (Statista). That is the purpose of a lobbyist.

What's more, in some countries corporations can contribute to political campaigns, which means their political power is exponentially higher, since they are able to contribute far more than ordinary citizens. This is likely the reason that since the advent of the modern corporation, tax codes have gotten increasingly complex over time. Before corporations, taxes were written so that ordinary citizens could understand their obligations clearly.

Once again, the analysis reaches two different conclusions: an average citizen does not have a lobbyist, so the only "control" or influence they might be said to have is voting power. People can vote for their own government who make the taxation laws, but they don't have the influence over who wins elections, who the elected government will represent, and how tax revenue will be spent by the government. In some ways, the tyranny of the majority will always exist. The government is supposed to represent the general will, yet must fulfill the desires of their constituents and campaign funders in order to get elected, so there inevitably will be those excluded, such as minority groups and ordinary individuals. Big business-friendly policies are so popular because those policies often translate to big campaign funding. Therefore, conglomerates are likely to have some influence on the tax policies, where lobbying and campaign finance contributions are substantial, whereas ordinary people, having no power other than voting, are unlikely to have any influence whatsoever on the tax code.

Final Caveat

Citizens and in many cases even corporations do not have influence on how tax revenue is actually spent, which arguably negates the entire concept of consent. Governments often do unjust and immoral acts, from slavery to war, for expedience, power and greed – or just because it is the way things have been done. Paying taxes in some cases allows the government to fund wrongdoing. Hence, if there is no reflection of the people's will on the government's spending, consent to the tax may not exist either. Some may argue that a "blanket" type of general, permanent consent of the tax code and government spending is possible, but this argument doesn't hold up. If any condition, such as "reasonable," must be assumed or applied to the concept, then no such general consent exists. The specific nature of how a tax will be spent is integral to a taxee's individual and subjective determination of reasonableness, which varies case to case.

Conclusion

All three criteria considered above have different outcomes for ordinary citizens and wealthy conglomerates, resulting in a clear case of consent to taxation for the latter, but the opposite for the former. It should not be surprising that this is the case, as in every type of government, money is a form of power: those with more of it operate under a different set of rules. Specifically, wealthy multinational corporations have consent that includes choice, transparency and control. Unfortunately the ordinary citizen does not have the same benefits due to financial limitations, so the true nature of the nonconsensual taxation is indeed theft, no matter how conditioned society has become to it and how normalized it has become. Customs and laws do not remove the consideration of consent in a determination of theft.

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