L.T. McRae

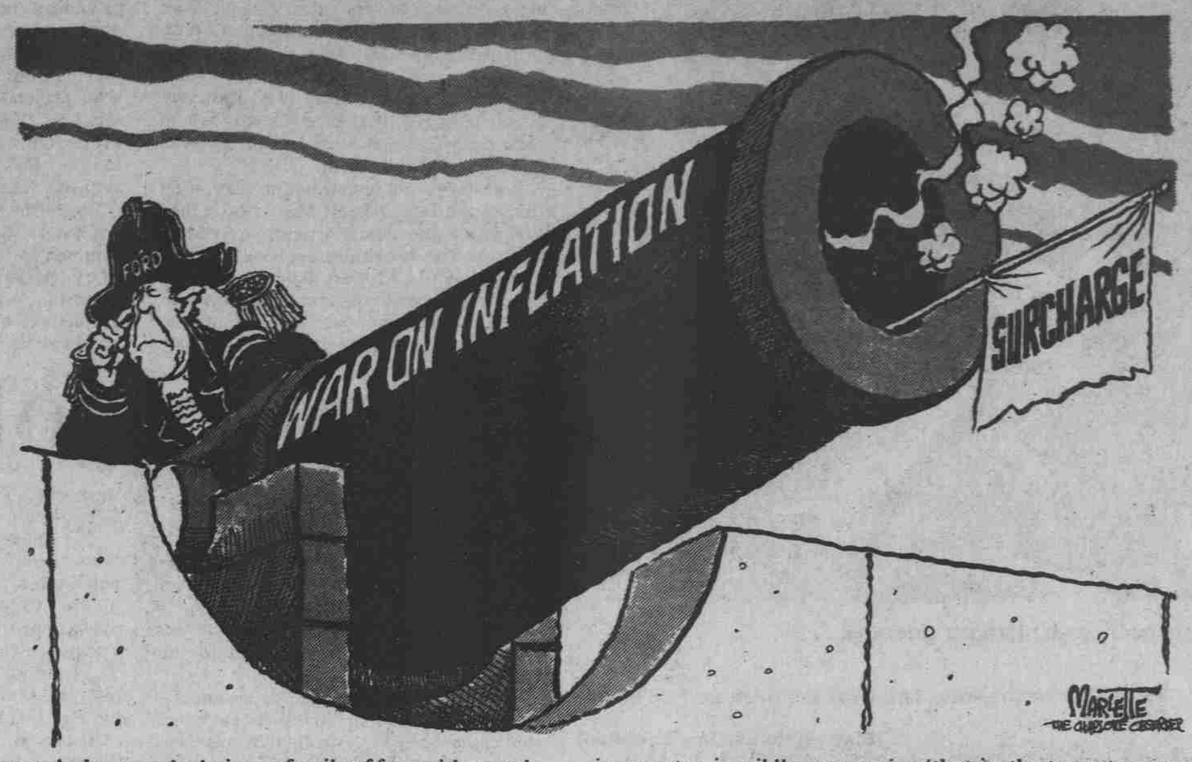
U.S. tax system is fraudulent and incomprehensible

President Ford's proposed tax surcharge, the tax embarrassment of Richard Nixon, and the oil companies' soaring profits have all focused new attention on the federal income tax. Any attempt to discuss or even catalogue all the questionable provisions of the Internal Revenue Code would require several volumes; all I can do here is to suggest some general considerations.

The broadly-based income tax is a relatively recent innovation in the United States. The constitutionality of taxes on the incomes of individuals or corporations was dubious until passage of the Sixteenth Amendment in 1913 gave Congress explicit power to impose such taxes. Tax rates were low and applied only to high incomes until World War II. The tax system in more or less its present form was started during the wartime emergency. Like so many other emergency measures, the federal income tax has long outlived the emergency and by now has been with us so long that we regard its basic premises as natural, if not sacred. Proposed reforms usually involve nothing more than modest changes in the existing structure.

The basic premise of the federal income tax is that those who earn most should pay most. Increments to income are taxed at successively higher rates, reaching 70 per cent of all taxable income over $200,000 a year. Corporations are taxed at a rate of 22 per cent of the first $25,000 of profit and 48 per cent of everything over $25,000. The basic system resulted from the populist notion that the way to happiness is to make the rich pay for everything, (or, "squeeze them until the pips squeak," as British Prime Minister Harold Wilson put it). The progressive income tax is a Robin Hood scheme intended to redistribute income from the rich to the poor and thus make the after-tax income distribution more even than the before-tax distribution.

The most recent study of the incidence of taxation is *Who Bears the Tax Burden?* (Brookings Institution, 1974), a book by Joseph A. Pechman and Benjamin A. Okner. Pechman and Okner's study reaches some intriguing conclusions, only part of which are mentioned here. For one thing, the effective rate of taxation is nowhere near the theoretical rate.



For example, by my calculation, a family of four with a total income in 1973 of $250,000 should pay a tax of $120,430, assuming that deductions total 15 per cent of income and that all income is from salary. That is a tax rate of about 48 per cent. However, Pechman and Okner found that the average effective tax rate on families with incomes in this range is somewhere between 15 and 18 per cent, or between $37,500 and $45,000 on an income of $250,000.

Another intriguing conclusion is that the federal personal income tax is mildly progressive (that is, the tax rates rise with income) up to the range 100,000 to 500,000 per year. Beyond that level effective personal income tax rates actually decline. Finally, the study notes that the effect of all taxes—federal, state and local—on the redistribution of income in the United States is negligible.

The wide disparity between actual and theoretical tax rates is created by so-called "loopholes" in the tax code. Starting from the basic progressive structure, Congress attached special provisions and exemptions until the tax structure looks like a Christmas tree decorated by a band of demented six-year-olds. Some of these provisions were intended to exempt taxpayers from taxes on receipts that did not actually represent spendable income. Thus, taxpayers are allowed to deduct a wide variety of business expenses from their gross income before calculating their taxes. Some provisions were meant to induce behavior the Congress regarded as desirable, such as home buying, which is encouraged by the deduction allowed for interest payments.

Some other provisions seem to be outright raids on the public treasury, adopted at the urging of special interests. For example, an oil company is allowed to deduct royalty payments to private owners of oil wells before calculating their taxes, just as they would any other business expense. But if the royalty is paid to a foreign government, it is considered a tax payment to that government, against which the company receives no credit on taxes due the U.S. Government. In the first case, the IRS loses 48 cents for every dollar in royalty payments, and the oil company loses 52 cents. In the second case, the IRS loses a dollar for every dollar in royalty payments, and the company loses nothing.

The tax system that has resulted after all these loopholes were included is, first of all, fraudulent in that it pretends a progressivity it does not possess. Secondly, it is so complex that ordinary citizens find it incomprehensible. It keeps an army of lawyers and accountants employed in figuring out ways to beat it, an effort that is essentially useless from society's standpoint.

Finally, the tax system has had unforeseen side effects. Businessmen do not invest for profit, they invest for *after-tax* profit, which is an entirely different matter. The result has been a serious distortion of economic effort in the United States, a distortion that probably no one understands fully. In principle there is nothing wrong with using the tax system to encourage activities deemed to be socially useful, but it is a power that ought to be used with utmost care since "socially useful" is really a value judgment.

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Obscenity rulings confusing, unfair

Second in a three-part series

The Wilmington textbook controversy is directly related to an issue which has occupied, and bewildered, the Supreme Court since 1957: the definition of obscenity. Today, after 17 years of grappling with the issue, the Court has only given us enough law to hold the loopholes together, and enough loopholes to let obscenity slip through.

The Court began in *Roth v. U.S.* with the assumption that obscenity is not covered by the free speech, free press clauses of the First Amendment. This was its fatal mistake because once the Court outlawed obscenity, it had to decide what it is. The high tribunal held that obscenity is "prurient," prurient is determined by the community, and local mores are the attitudes of the average citizen in that community. This seemingly simple 1957 formula, with the corollary that obscenity has "no redeeming social value," has remained the basic rule to the present day.

Two cases in 1966 further expanded the definition of obscenity to include "the commercial exploitation of erotica." Pandering was the informal title of this offense, and it sent Ralph Ginzburg to prison, the first publisher convicted on obscenity charges in 15 years. A sidelight to the rulings was that when pornography is directed toward a deviant group, the *Roth* community rule is applied to the average deviant.

Two cases in 1973 added the "patently offensive" definition to obscenity. The Court claimed (1) that there is a "nexus" between antisocial behavior and pornography (contrary to the President's Commission on Obscenity), (2) that states are not required to enforce their obscenity laws (thus side-stepping the problem altogether), and (3) that "consenting adults" are allowed partial, but not absolute, Constitutional privacy rights. The latest obscenity case, decided in 1974, further modified the *Roth* community rule by deciding that local juries do not necessarily have the ultimate say in determining obscenity in the community.

If the above decision progression seems confused, that's because it is. The best legal scholars in the country have not been able to analyze its path.

But there is a solution, and it is to reject the initial gambit. Justices Black and Douglas have taken that course since 1957 by including obscenity under the First Amendment. At first it seems wrong to condone obscenity, but it certainly has its advantages. The two Justices' stance not only has the virtue of consistency (and predictability) but it saves an already overburdened Court from reviewing every porno-flick and pulp magazine which makes it way into the courtroom.

It is not an ideal solution, but it is at least a solution, which is more than the Court's majority has been able to offer. Essentially, Americans are limited to three choices: (1) a Victorian fig-leaf decision-rule which would outlaw any and all displays of genitalia whether on a Renoir or an exhibitionist, (2) the current confusion, or (3) the non-censorship stance of Justices Black and Douglas. When one thinks of the double standard already applied to the media (lots of violence but no sex, the "redeeming value" criterion applied to sex novels, but not James Bond or TV) the non-censorship stance seems the best answer available to us now.

For all the Supreme Court's fancy formulations, Justice White best expressed its policy in his dissent in *Jacobellis*, "I know it when I see it." That is what the citizens of Wilmington have suddenly decided. But they face the hopeless and unjust task of forming a consistent community rule on obscenity. And if you can't make a good law, or even a fair one, it is better to do without.

Janie Clark

Commission decision on utilities sale ignores question of service, quality

Which question is more important to the Chapel Hill utilities consumers? This is the issue the Church Commission supposedly addressed. The conclusion they reached actually answers neither question.

The Student Consumer Action Union, with the aid of Dr. Howard Rockness of the UNC School of Business and members of the Orange County Citizens for Alternative Power, undertook a projective analysis of the price of the different bidders on the utilities to the consumers. This analysis does not show major price discrepancies between the bidders, but the Church Commission did not consistently recommend the bidders that would cost the consumers least. Witness the following excerpt from the SCAU *Analysis of Telephone and Electricity Bids*.

These are the projected 1976 rates on electricity and telephone as they pertain to the per-month cost to consumers:

Residential electricity (based on 1000 KWH usage): Duke Power, $28.72 per month; Consumers Utilities Corporation, $25.78 per month.

Telephone (basic private line service): Southern Bell, $6.66 per month; Consumers Utilities Corporation, $7.42 per month.

Obviously Duke Power as electricity owner would cost the Chapel Hill consumer more. And while the cost of Southern Bell in 1976 would be less than the Consumer Utilities Corporation, $7.42 per month is still less than the $7.50 per month we pay now.

Even though the Church Commission did not fully address the matter of price to the consumer, it is hard to argue that they addressed the problem of quality of service. Perhaps the belief was that as experienced distributors of electric and telephone service, Duke Power and Southern Bell would give consumers efficient, responsive service. Ask present Duke Power consumers how much

student consumer action union

rates went up while a perfectly good coal mine lay idle during the dispute between Duke Power and its mineworkers in Harlan, Ky. Duke Power was not responsive to its workers' demands until a man was actually murdered during the strike.

But the Brookside Mine dispute may be a remote argument to use when discussing University consumers. There is a clearer argument that will speak to residential users of electricity. Recipients of Duke Power in Greensboro can, in some neighborhoods, simply expect to be without power whenever there is a thunderstorm. The argument those consumers are given when they call to complain (if their phones are working—Southern Bell works there, too) is that the consumers would have power if they did not have so many trees in their yards. People have known since the invention of the telegraph that falling trees knock down wires. The remedy for this problem has also been available for years—bury the wires. The "feeder" wires which provide electricity have not been buried.

The SCAU report on the utilities also shows how Duke Power and Southern Bell spend the money they collect from their consumers. A lot of it is spent on tax-deductible projects such as the 1972 $120,500 contribution from Duke Power to the Perkins-Daniels-McCormack law firm. And the rates for Duke Power were just raised because the cost of producing electricity is rising. Why doesn't Duke Power spend the money it has on producing electricity instead of giving it away?

In the summary of SCAU's utilities analysis, five points are made explaining the advantages in quality of service Chapel Hill, Carrboro and Orange County would have with a locally-based utilities distributor such as the Consumers Utilities Corporation (CUC). Among these points is the inclusion of the assured returns of the profits from rate collection to the system to produce its services. CUC would be a non-profit organization. There would be no tax-exempt contributions to firms and organizations that do not have anything to do with the direct production of services to the consumer.

If the figures and facts in this column disturb you, write the Utilities Commission at 1 W. Morgan Street in Raleigh. You might include a note to the attorney general at the same address. Copies of SCAU's utilities analysis are available for reference in the SCAU office in Suite B of the Carolina Union.

Notice to Consumers

Kroger's grocery store in the Kroger Plaza does not have a listed phone number. SCAU has their number if you wish to get in contact with the store. SCAU also has a question. Why would a store which serves the public insist on having an unlisted phone?

Janie Clark is head of SCAU.

Bob Jasinkiewicz

The universal symmetry

Somewhere in the back of everyone's education, one learns that the shortest distance between two points is a straight line.

The most unfortunate and dangerous part of that education is that rarely does one learn that the distance between a problem and a solution is no straighter or shorter than the curvature of a paradox, for nature abhors straight lines as well as vacuums.

Just as in any race to cover a distance, then, how one finishes is often dependent on how one begins.

So let's begin with some basics.

Everything divides in half, symmetrically, and every uniform object so divided will reflect all of its parts like a mirror turned inward on itself. Each has characteristics of its other parts and characteristics of the whole.

A cell splits into a double likeness of itself and constructs being. An atom divides and forms energy. Out of the infinite dynamics of cells and atoms comes life. And life is the only uniform substance that cannot divide itself and survive, in spite of our persistent attempts.

Unlike the dynamics that make it function, life for us may not be an infinite process that will endure in spite of ourselves for we are intricately bound to that process as both master and slave, and we are capable of ending it as well as having it end us. For every action there is indeed a reaction.

When Thoreau wrote of man's "quiet desperation," he was merely reflecting on the dynamics of survival, and survival dictates a policy of necessity, not of opportunity.

We are one species composed of a variety of different parts, but we are still reflections of the whole. Yet we divide ourselves into artificial compartments, like the carriages on a circus ride, and because we go around in circles we think our every movement means progress.

In a world of beautiful symmetry, we merely see ourselves in others.

An energy crisis strikes, for example, and instead of appreciating the intricate framework of mutual dependence on which life is hung, we accuse another part of ourselves with greed for maintaining "artificial" price levels on oil, an accusation that is really a projection of our own greed in trying to corner the market on the world's resources., Yet we haven't calculated the price of survival once the wells run dry.

One part of us at least is learning that economy means nothing more than operating within a well-defined balance of nature, while the other part of us continues to operate on assumptions governed by the desperation of the New York Stock Exchange and by the self-destructiveness of mass consumption and mass waste.

The politics of necessity dictate that we make concessions and conserve; the politics of opportunity dictate that we spend now and pay later.

The survival of the fittest refers to the survival of species, not individuals. Yet we divide ourselves into categories: communists and capitalists, farmers and workers, creditors and debtors, and even our creative efforts into eastern and western civilizations. But nature divides us in opposites in only one instance, and that only for the biological survival of the species.

For those who concur with Marx that the history of man is the history of struggle within the species, and for those who concur with Darwin that the history of man is the history of struggle between species, look to the whirlwind.

In a world of beautiful balance, the interest rates on greed and affluence are compounded infinitely.

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