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LIBERTY & TAXES

By BRADFORD B. SMITH

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FOREWORD

A FUNDAMENTAL TENET OF THE COLLECTIVISTIC PHILOSOPHY IS BEST expressed in the words of Karl Marx, "From each according to his abilities, to each according to his needs."

No devotee of individual liberty objects to *voluntary* gifts and charity. The evil to which he objects is its imposition by some on others, *coercively*, with these consequences:

1. The victim is deprived of what he produces, which removes his incentive for production.

2. The one who receives unearned rewards is relieved of the need to produce, which likewise removes his incentive for production.

3. Hence, as production declines, this coercive collectivism must inevitably lead to arbitrary and dictatorial punishment. With voluntary production abandoned there is always sought a way to "whip up" production among the ever-increasing non-producers and among those who the authorities *think* are insufficient producers. Even the original "beneficiaries" become the victims of the thing they helped contrive.

This essay examines progressive taxation, that is, "From each according to his abilities," from the standpoint of its harmony or disharmony with the principle of individual liberty.

LEONARD E. READ
of the Foundation Staff

THREE CONCEPTS OF "UNIFORM" SHARING OF TAXES

INCOME	PROGRESSIVE TAXATION The more you earn, the greater the tax percentage	PROPORTIONAL TAXATION Everyone pays the same percentage, regardless of in- come	EQUAL TAXATION Everyone pays the same amount in dollars, regardless of income
\$2,000	 No tax	 \$231	 \$341
\$3,000	 \$133	 \$347	 \$341
\$10,000	 \$1,577	 \$1,157	 \$341
\$50,000	 \$20,720	 \$5,784	 \$341
\$200,000	 \$130,169	 \$23,137	 \$341

The shaded portion of each symbol represents the Federal income tax for individuals. Other taxes, direct and indirect, are not included.

Progressive tax payments shown above are those for 1946, for a married man with two dependent children. The rates shown for the other two concepts would have produced the same total revenue as was collected in 1946.

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IN 1940 UNEMPLOYMENT IN THE UNITED STATES AVERAGED MORE than it did in 1931. Numerous students believe that unemployment had become chronic in America; that it was promoted by the federal tax structure; that its wartime elimination can prove temporary; and that adherence to the type of tax structure developed before and during the war would greatly contribute to the reappearance of chronic unemployment and the undermining of the American individual enterprise system. These are amply sufficient reasons for re-examining the principles of federal taxation.

Such re-examination is the more imperative because the tax burdens of the future are expected to be greater than the pre-war burdens. Faulty taxes can be endured without too great damage when the tax rates are low; when the tax rates are high bad taxes are destructive. The basic principles of federal taxation may be established either from the viewpoint of the taxation that will least interfere with attaining and maintaining prosperous production, or from the viewpoint of the taxation that is most in accord with the American system of individual liberty and enterprise. Both examinations lead to substantially the same result, but the following comments are from the latter viewpoint.

THE VOLUNTARY SOCIETY

The American society is founded on the idea of individual liberty. It is an abnormal society, for most of the social organizations of history are of the authoritarian form in which a ruling class exploits the governed. Most individuals in America think they believe in individual liberty (not so many *really* do); but few have sought to define it in specific terms. Yet it must be so defined if it is

to be related to the principles of taxation. One approach to a specific definition is to note the ultimate means by which people can be compelled to do things against their wishes or inclination. They are not many. First, there is the infliction of physical injury or confinement. Then, there is the taking away of property backed by the threat of physical injury or confinement. Finally, there is defamation. These, or the threat thereof, constitute virtually the entire list of ultimate means by which one person or group may coerce another. If people can be prevented from exerting such coercions against each other, then what remains is liberty within the limits of individual capacity and desire and within the natural resources environment in which a nation may find itself.

Government in America is primarily the business of preventing people from coercing and exploiting each other, that is, the preserving of individual liberty. To do it the government is granted a monopoly in the exercise of these coercions — of applying physical confinement or injury or deprivation. By threat of confinement or deprivation by government the strong are prevented from assailing or stealing from the weak — thus leaving liberty for all. The parent cannot even spank (coerce) his child save that the exercise of this constraint is sanctioned and delegated by government. The maintenance of individual liberty rests upon seeing to it that the government never exercises its powers to coerce except to punish the exercise of coercions by people of each other. Under those circumstances we have individual liberty. With this in mind individual liberty may be defined as follows:

Individual liberty is definable only as the absence of coercion between men. It means not only that no man must initiate physical injury or confinement of another, or take his property or good name, *without his consent*; but also and most especially it means that not even government must do these things except to punish those who do them to others, provided private property may be taken for public use *if* just compensation is given in return. Individual liberty

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is thus obtainable only when government's superior power to coerce is employed only to cancel out fraud, predation, coercion and monopoly abuse between men.

IF THAT IS LIBERTY

If this definition is observed one may note the following:

1. Freedom of worship, freedom of speech, freedom from man-imposed fear or want are automatic because there is no way that one may restrict such freedom to another.

2. Markets are automatically voluntary and free, for if no man may take another's property without his consent then each man is free to enjoy the fruits of his own efforts and dispose of them as he sees fit in *voluntary* exchange for the fruits of others' efforts.

3. Production and marketing are automatically competitive for no one has power (unless backed by government) to prevent another from engaging in pursuits similar to his own; as a corollary monopoly is automatically ruled out unless the government's power to coerce is invoked in its behalf as in franchises, cartels and labor unions.

4. The sanctity of contract is automatically implied because one who takes property and does not fulfill his contract takes it without the consent of him with whom he contracted.

5. The right to work for and quit working for one's neighbor (within whatever contractual terms are established) is also automatic; as is also the co-equal but often unrecognized right to hire and to stop hiring one's neighbor (within the contractual terms).

These matters may seem remote from rather than relevant to federal taxation in America; yet they are fundamental, for taxation is the systematic taking, without specifically definable *quid pro quo*, of the individual's substance for the support of government. Taxation, because it is necessary and because it is taking under constraint, is a principal danger to the maintenance of individual liberty in America. The taking being unmeasured in free markets against indi-

vidual benefit conferred, the constant (and quite *human*) temptation of those who govern is to engage in tax (and expenditure) favoritism in order to maintain their positions of power and to expand the power they wield beyond the rigid limits that must be observed if individual liberty is to be preserved.

WITH CONSENT OF THE GOVERNED

The key to federal taxation that is in conformity with individual liberty is epitomized in the phrases "with the consent of the governed" or "taxation by representation." Taxation that is *truly with the consent* of the taxpayers, as distinguished from being imposed by some on others, is fully within the definition of individual liberty. "No taxation without representation" was one of the slogans of the Revolutionary War out of which came our society. It could only have meant representation of the *taxpayers*, for the tax tyranny of a foreign king does not differ essentially from the tax tyranny of a domestic group. The determination of the principles of taxation in consonance with liberty thus becomes one of ascertaining just how true "consent" is steadfastly to be secured.

This, of course, cannot mean that each individual taxpayer is to pay only that which he voluntarily decides to pay. It means rather that *all* shall pay *uniformly* what the *most of them voluntarily agree they should all pay*. It is true that a dissenting minority is constrained also to pay, but the extent to which its members are constrained to pay is limited to and protected by that which the most *voluntarily impose on themselves*; while, at the same time, it provides that no minority group may employ its power of dissent as a means of enjoying the benefits of government while escaping its cost.

Taxes cannot be determined by everybody in a mass meeting. They are determined by elected representatives. Specifically, taxes are originated in the House of Representatives where the representation is according to population. The task then is to see to it that

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this body is truly representative of *the taxpayers* — the statisticians would call it insuring an accurate sample. Since we cannot give big taxpayers more representation than little taxpayers (the representation being established as per capita) the only method open to insuring the representativeness is to adjust the distribution of the tax burden to accord with the representation.

THIS TYRANNY FORESEEN

This adjustment was provided in the constitution (before the adoption of the 16th Amendment in 1913) by providing that all direct taxes (of which income taxes are the most direct) should be apportioned among the states in exactly the same way that representation is given in the House — that is, according to population. That way it was impossible for a majority to get together and support a direct tax that fell more heavily upon a minority than by the same act it bore upon the majority. The principle of the voluntary was preserved. The majority had to assume a tax burden voluntarily before it could impose one (but not a greater one) on a minority. Those in the minority were constrained to pay, it is true, but only as much as those of the majority imposed on themselves. Each voter had one vote in electing representatives to decide the tax and each was therefore to pay the same tax his representatives levied.

No better protection for identifying federal taxation with liberty could have been devised; there is no surer way to re-identify them than to repeal the 16th Amendment which granted unlimited power to majorities to impose direct taxes on minorities not paid by themselves, and which has made possible an orgy of demagogic tax exploitation under the slogan “soak the rich.” There is, of course, no freedom but only tax tyranny when the mass of the electorate supports heavy taxation of a small minority, while itself escaping the burden.

Contrary minded people say those of greater means “can afford to pay more” or have “greater ability to pay.” To some extent this is

undoubtedly true and to it consideration will shortly be given. But it still remains true that tampering with the identity between voting and paying is tampering with individual liberty in America. It is far better that the majority surely and voluntarily vote taxes on itself while a minority escapes, for that is freedom, than that a majority impose taxes on a minority which the majority escapes, for that is tyranny. The majority has power to protect itself, the minority does not, as pointed out by Madison in the Tenth Federalist paper.

PROPORTIONAL TAXATION

If everyone paid the same tax then it is conceivable that the tax would equal the whole of some small incomes and be but a fraction of some large incomes. It would deprive some of the whole fruit of their exertions and others of diminishing fractions of the fruits of theirs. It is apparent that equality in taxation does not necessarily mean equality in relative burden or sacrifice. If we distributed taxes so as to make the tax *burden*, rather than the tax amount, equal to voters, would we then still have tax paying and tax voting equated? Would the identity be even closer? There are certain reasons and precedents for supposing this would be the case. But what is an "equal burden"? Perhaps the closest to the fundamental that we can get is to recognize that when man is born into the world he has only his limited life span at his disposal. It is the element of man's time involved that gives value to things. Air is necessary but has no value because it is abundant. Conditioned air has value because it involves the time of men to provide and operate the mechanisms to produce it. Gold and diamonds take time to discover and mine. An equal burden to men of unequal capacity can then be deemed a burden that conscripts an approximately equal amount of each person's time. The earning power of men may differ but an equal proportion of each person's income tends to represent an equal conscription of time or enjoyment and hence an equal burden.

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This recognizes that a spoonful of food to the well-fed would yield more human satisfaction if fed to the hungry — the law of diminishing utility; but it holds that a ten *per cent* of each person's income tends to be equally prized.

THE MORAL PRECEDENT

If direct taxes are apportioned in proportion to income instead of in proportion to population, while the voice in determining the tax is in proportion to population, we then have established, in the light of the preceding, a reasonable identity between tax determination and human disinclination to pay it. This recognizes equality between men in terms of their each having one life to live, without denying the obvious inequality in their capacities; it protects freedom to live by providing that taxes shall substantially infringe equally upon each person's lifetime.

In support of proportional, direct taxation there is much moral and legal precedent. Tithing started with Moses and has had religious sanction ever since. There are no exemptions. Sales taxes, excises and customs are collected in proportion to the means expended in purchasing; property taxes are percentages of valuations. These would be the principal sources of revenue were the 16th Amendment repealed, and so its repeal would automatically give us approximate proportional taxation. Military conscription takes the same time from each subject to it. Business assessments and distributions are apportioned according to value participation. Proportional taxation of income is the only taxation that leaves the relative distribution of income unchanged. That distribution as determined in a society by the *voluntary* decisions of its members is the one which represents the maximum attainable human satisfaction in terms of sacrifice to secure it. Thus no one receives a money income in a free society except that he or his property render the community a service voluntarily paid for by the community at its own price. He who secures

greater income renders greater service. The community purchases his products or services in greater measure than those of others (thus giving him greater income) only because it wants to, — because the shoes he makes, for example, give the greater satisfaction. To redistribute the income under coercion is to cross the community's voluntary decision and thus necessarily to diminish the sum of human satisfaction.

Straight proportional taxation is the only practical and definite, arithmetic principle of direct taxation that there is between the principles of (a) everybody paying the same amount of tax and (b) income equalization, that is, taxation, coupled with subsidy, which results in everyone having the same income *after* the tax and subsidy.

If anything, proportional taxation takes too much rather than too little of larger incomes, if we consider taxes as payment for the cost of benefit conferred by government. It costs no more to light, clean and maintain order in the streets for the benefit of those of larger income than for those of lesser; or to maintain courts or count votes; or to provide schools. Many government costs are *per capita* costs and justify *per capita* taxes. It is, of course, erroneous to hold that one's income — whatever it is — is a benefit conferred by the community on the individual, for it is as much a measure of the service rendered the community by the individual; they are quits. It is only from the viewpoint of *equal sacrifice*, of equal disinclination to pay a levied tax, of equal infringement on one's "living," of equal burden, that proportional, as distinguished from equal, direct taxation may be justified under the principle of taxation by representation.

PROGRESSIVE TAXATION

Progressive taxation of income by the federal government, which is currently practiced in the extreme, provides, first, that many voters of small income are either exempted entirely from paying,

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or pay very little, and, secondly, that successive increments of larger incomes are taxed at progressively increased rates that become confiscatory.

There is no justification in morals or in the principles of individual liberty for progressive taxation. It is the simple looting through law of the more productive by the more numerous but less productive. Its appeal is demagogic, and its result is communism, which in turn is but a transitory stage in the evolution away from liberty into dictatorship. The endorsement of progressive taxation is, knowingly or unknowingly, the endorsement of communism, and sincere endorsement of progressive taxation, motivated often by generosity, is unwittingly one of the worst forces undermining individual liberty in America.

Those defending progressive taxation have no principles to rely upon short of taxation which equates all incomes after taxation. That is why they unwittingly support communism. The progressive taxation argument boils down to vague assertions that the poor cannot pay much and the rich "ought to pay" higher rates. When asked how much higher, there is no answer save that it is a matter of judgment — which in practice comes down to the venal philosophy of plucking the goose just short of killing it. Acceptance of the idea of progressive taxation thus transforms the legislative process of tax levying into pressure group demand to make the "other fellow" pay the tax in exchange for the group's political favor, instead of united and uniform decision of proper burden to be placed equally on *all* constituents.

Some hold that large incomes have got to represent exploitation of others or luck, simply because they are large, and that tax confiscation is a just punishment. This overlooks:

1. No one gets a money income in our society unless it is *voluntarily* paid him by the community at its own appraisal of the service he or his property renders in exchange. The community is quits with the individual at that point. The argument is weird which holds that

he whose industry provides the community with 100 pairs of shoes, for example, should be punished as compared with him who provides but 10 pairs.

2. No one constrains competitors through monopoly except with the support of government. Monopoly income should be corrected by withdrawing the support rather than by taxation to include also non-monopolistic income.

3. The thought that it is just to deprive people by taxation of "unjust" income is a travesty on justice. Were income unjustly secured, justice would require its return to *those from whom it was received*. To loot the "looter" through taxation is to engage in "high-jacking," not justice.

4. If some in a specified income bracket are getting "too much" income then it follows that others are getting "too little." To penalize all is thus, within the very concept itself, to aggravate injustice as much as to dispense justice.

Those favoring progressive taxation claim that those of small income should pay little or no tax (be exempted). They can't afford to pay, it is claimed. But if so, then they can't afford to pay for anything else either. There is no reason why, in proportion to their means, they should not pay for government as for other things; there is vital reason why they should if they vote. Thus the argument is essentially an appeal to charity; but the practice is something with an uglier name unless it also provides that the man who pays insignificant or no tax shall have no vote in selecting representatives in the tax-determining body. For otherwise the body degenerates into levying taxes not on those it represents but on others. This is tax tyranny, not taxation by consent, not liberty.

The care and the relief of the unfortunate in a voluntary society must be *voluntarily* undertaken by those who care for them, if the voluntary society is to be preserved. If that care is constrained (as through taxation) then we no longer have a voluntary society. When a man voluntarily gives something to another we have a voluntary

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society, but when one man votes benefit to himself at compulsory cost to others then even though there is the same transfer of value, the morals of the robber have been substituted for those of charity. Charity and coercion, that is, government, cannot be mixed and freedom remain unimpaired.

TAX PRINCIPLES

From the foregoing there emerges one central principle that transcends all others: If we are to have individual liberty in America then taxation by representation of *the taxpayers* must ever be jealously preserved. With taxation initiated in a body where representation is per capita this means that direct tax burdens must be equally distributed among the people. An equal burden is deemed one which consumes an equal proportion of each person's life, which in practice means an equal proportion of income. The one thing always to dread is the laying of a tax burden on minorities by majorities which the majority itself escapes. That is tax despoliation. From this central principle more detailed principles derive:

1. If individual income is to be taxed, all of it, from whatever source derived, by whomever received, in whatever amount, should be taxed at the same rate. This neither "soaks the rich" nor "burdens the poor"; it is the only even-handed principle that is practical. To tax larger incomes at higher rates is to lean towards tax despoliation; to tax the more numerous (smaller) incomes at higher rates is the better to insure that voters are voting taxes *on themselves*, in accordance with the principles of individual liberty and taxpayer consent. The latter is far safer than the former.

2. Taxation should be simple in principle and in application in order that there shall constantly be general understanding of it, for otherwise there can never be surety that the consent of the taxpayers is truly rather than misguidedly secured. By the same token federal taxes should never be hidden, and it is preferable that their pay-

ment be painful rather than painless. The levying of hidden taxes is a practice more fitting to an authoritarian state where a ruling class endeavors to keep the governed contented like cows regularly to be milked. In America the preservation of taxation by representation requires that those whose consent is requisite under that principle should at all times be distinctly aware of what the taxation is.

3. Federal taxation should be uniform geographically and with respect to the tax base. This means that if there is to be a sales tax on consumption all things should be taxed, and at the same rate. If so-called luxuries are taxed and so-called necessities are not, this is but an evasion of the principle of equalized burden. It is obviously an effort by a majority to make a minority endure a greater tax burden than the majority is willing to assume. If the buying of tobacco, liquor, and fur coats is "sinful," then taxing them rather than forbidding them, is not the practice of virtue but the commercialization of sin for revenue.

4. The federal government should make no expenditures of any kind for which in return the government does not receive an equivalent *quid pro quo*. The dispensing of gifts by the government lightens the net cost of government to the recipients. By giving back part (or more) than was taken in taxes the result is the same as if the burden of taxation had been lightened for the selected group. Moreover, the power to make gifts of other people's money is the power to command political obeisance and a most dangerous instrument in the hands of power-hungry politicians. This means, for example, that "social security" costs should be voluntarily assumed and financed exclusively by the benefited group — never at the expense of the general taxpayer.

5. Taxation of estates or gifts by the federal government is incompatible with the principles of liberty here enunciated. To tax gifts is to deny to the individual the right to possess, dispose of, or exchange the fruits of his efforts as he sees fit. Moreover, to put a tax

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penalty on charity and thus comparatively a premium on selfish consumption is repugnant to the American sense of ordinary decency. To tax inheritance is to tax a gift — the only difference being that the man who gives is dead. This only makes its practice additionally offensive to the principle of liberty because one man who cannot vote is one who is dead.

6. There is no place in the framework of liberty for the direct federal taxation of corporate income. Since corporate income is taxed again when paid to stockholders, the corporation income tax represents an attempt doubly to tax a minority group. This does not mean that corporations or any other form of business enterprise should not be employed in the collection of taxes. They may represent the points at which taxes may be collected most conveniently, economically and promptly. Thus supposing that there was taxation of individual income, as in (1) above, the business enterprise paying such income in wages, salaries, rents, royalties, interest, fees, and dividends to individuals could readily withhold and transfer to the treasury the income taxes. This would probably be more convenient and certain than the collection of the taxes after the income had been scattered amongst the individuals. Similarly, it is more convenient with respect to sales and excise taxes for the vendor to collect the taxes from the buyer and transfer them to the treasury than for the treasury to seek to collect them from the buyer after the sales have been transacted.

7. The voters of one period should not tax those of a later period. Those of the later period are not represented in the instant taxing body and hence today's taxation of the citizens of tomorrow distinctly violates the principle of taxation by representation of *those who pay the taxes*. This means that government expenditures should never (except possibly in time of war) be extensively financed out of debt. To do so is not only to violate the principle of taxation by representation but it is to permit those who govern to engage in expenditure that is not subject to the taxation check and hence not

subject to review by the electorate. This breaks the link between cost and consent and thus substitutes authoritarian principles for those of liberty.

PROSPECTS

Few individuals perceive the danger to individual liberty in America in progressive direct taxation, or who, perceiving, have the courage to denounce the principle and its practice. This is thoroughly understandable for a number of reasons: It is a long time since we fought a war to get taxation by representation, and the realization of the meaning of the phrase, its vital importance to liberty, its relation to "the power of the purse" have grown dim. The appeal of progressive taxation is double-edged — it appeals to the mass voter's greed that the "rich" should pay the taxes, and simultaneously the greed is glossed over by invoking the spirit of generosity and Christian charitableness of the more productive, for which Americans are notable.

The disappearance of liberty in America through tax despoliation is so natural an evolution that it has been feared and predicted by statesmen and historians down through our history: Madison recognized the danger in the Tenth Federalist paper, but pointed out it would be unlikely to happen under the Constitution then proposed for adoption — nor could it until the 16th Amendment, a century and a quarter later. Lord Macaulay in 1857 predicted it would happen in the course of the next century, when in hard times, the mass of the voters would listen to the demagogues who promised, if elected, to despoil the more productive for the benefit of the less productive.

The real hope for the recovery of individual liberty in America lies with millions of individual citizens and in the prospect that they may rediscover the nature of government. It lies in their rediscovery that government wields the monopoly in coercion; that it has in the

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past and will in the future be ever subject to awful temptation to employ or delegate its coercive power for seemingly benevolent purposes beyond the limits compatible with the maintenance of individual liberty; that the limits once broken, its power tends to feed upon itself; that government tends always towards becoming master and always away from remaining as servant; and that persistently these tendencies must be jealously and rigidly checked if individual liberty is to be preserved.

Political parties compete for the exercise of power, but never to diminish the size of the prize for which they strive. American citizens, through their Constitution, must always check the power of government and of *all* political factions, if they would retain liberty. In taxation this means that by constitutional amendment it must be provided that those equally represented in the levying of taxes shall equally share the burden of the taxes levied.

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