

The Abolition or Recreation of the 16th Amendment

Misha

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The eloquence and fire of Patrick Henry's most famous speech, addressing the President of the 2nd Virginia Convention on March 23, 1775, was a call to arms against the perceived tyranny of the British Crown and Parliament (Copeland, 1973). In spite of his later support of high protective tariffs for the new United States - How shocked would he have been at the state of taxation in modern America? The Income Tax system of the United States is a ridiculously complicated burgeoning beast of legislation consisting of unfair exceptions, hundreds of loopholes and harkens back to the very reasons that the Founding Fathers chose to fight for independence from Great Britain. The Federal Income tax must be revamped to provide a streamlined, fair and equitable system that boosts revenue for the needs of the common good while insuring that everyone pays their fair share. Perhaps scholar and filmmaker Saul Landau put it best: "Patrick Henry railed against taxation without representation. He should see it with representation." (Landau, 1995)

The 16th Amendment to the US Constitution was born of the income tax authorized during the Civil War to help pay the cost of the fray. In the post war years, the idea of income tax did not die. The US Government wanted to maintain the level of revenue that had served it so well during the war. However, the Constitutionality of an income tax was repeatedly questioned and the Supreme Court struck down a national income tax law in 1895 (Walenta, 2010). Nevertheless, by 1913 the 16th Amendment was passed by Congress and ratified by the many States. Fortunately, the initial income tax was only at a rate of 1% on 1% of the population – this would not last forever (United States National Archives and Records Administration, 1995).

The modern US income tax system is a progressive one. The progressive rate as of 2010 balloons from 0% for an individual that makes \$25,000 to 8.7% of an income earner making \$75,000 and finally 15.6% of income at \$150,000. In fact, the actual rate is slightly less with the various credits available, especially at lower income levels, with the \$25,000 breadwinner actually receiving a refund of \$7,100 under the current system (Hagopian, 2011). This illustrates the basic inequity at the middle class level without even delving onto the hot debate over taxation of the “rich”.

The progressive system has its roots in Marxist ideals of fairness enunciated in the *Critique of the Gotha Program* (Marx, 1938). One must accept the premise of "from each according to his ability, to each according to his needs" in order to accept the “fairness” of this type of taxation. Unfortunately, this is in direct opposition to the ideals that our nation was built upon - hard work and equal opportunity for success. This conflict is clear when one realizes that the more one succeeds under a progressive tax, the more obligations one has to support his neighbor - under pain of legal punishment. Does the idea of “ability to pay” or alternatively, the decreasing utility of a single dollar justify this Robin Hood like attitude of redistributing wealth?

Obviously, the uber-rich would argue against such redistribution, but even with the “more fair” progressive taxes that we pay today the system is gamed by everyone in the mix, leaving one and all feeling cheated. While many tout claims that 34% of wealth is held by the 1% of the taxpayers and the top 20% hold 50% of wealth, the reverse is true as well (Domhoff, 2005). According to US Government tax records, that same top 1% of taxpayers pays its fair share at 38% of revenue, while the top 10% generate 70% of Federal revenue. Meanwhile the bottom 50% (meaning those who made less than \$33,000) paid less than 3% of total revenue (National Taxpayers Union, 2008).

The question then becomes, how do we fix this inequity? A recent Congressional study has found several answers to this touchy question. Among them are income tax reform as well as changing to a system of consumption-based taxation. Income based reform, in its most simple and objectively “fair” form, could be a migration to a “flat” tax, wherein all taxpayers would pay a fixed and identical percentage of wage income, with a different rate on cash flow income, all with no loopholes (Bickley, 2009). This would allow for a fair and equitable system of pure income taxation. However, detractors would still balk as the lack of “loopholes” would theoretically hurt quid-pro-quo non-monetary income (Rothbard, 1988). Hence, we must find a better way.

A consumption tax could very well fit the bill. However, this overhaul of the tax code would require several radical changes in the way we do business as a nation. First, a repeal or replacement of the 16th Amendment would be required. This would effectively abolish the IRS and the \$350 billion per annum that Americans pony up just to have their complicated taxes filed (Lee, 2006). A simple code of a few pages would replace the 16,845 pages of the current tax rules in Title 26 of the US Code (Lode, 2006). The “Fair Tax” scheme would institute a “Value Added Tax” (VAT) that would tax all non-essential consumables (essentials being the likes of food and medicine) at a rate of 23% regardless of income. This would effectively replace the revenue generated by current system. Additionally, the advocates of punishing the “rich” would be placated as all of their purchases including big-ticket items would be subject to the VAT. The administration of this system could easily be integrated into the state level sales taxation systems. The obvious benefit to the citizen is that if he or she chooses to bank the majority of their paycheck, they would not pay any additional taxes, while big consumers would foot the Federal bill.

Of course whether a radical change to our national revenue generation system or a relatively benign shift in theory to one more appropriate to the ideals of fair play and just rewards, the change is not only desired, but also required. The current system perpetuates a sense of entitlement in the lower classes and allows those that would support a Marxist view of economics to maintain class warfare at a simmer. Regrettably, history has proven repeatedly that class warfare left in such a condition eventually boils over.

There is little to be gained and much to be lost in maintaining the status quo. Tempers flare and emotions run deep when the populace feels slighted by their government. The lessons that we can glean from the passions that have led to the ruin of many nations, and even the birth of our own can perhaps be our saving grace. The bondage of economic slavery cannot be allowed to weigh heavy on the citizens of the same republic that so readily threw off the shackles of a tyrannical crown simply to satisfy the political machinations of those that would redistribute wealth in the pursuit of a socialist utopia. Neither our Constitution, nor the 16th Amendment were intended to be used as a bludgeon to batter down the aspirations of liberty and when they are used as such, they should be altered to right those wrongs in a way that brings equity and common sense to the process.

Bibliography

Bickley, J. M. (2009). *Tax Reform: An Overview of Proposals in the 111th Congress*. Washington, DC: Congressional Research Service.

This report was commissioned under recent political pressure and meant to advise the heads of the US Government on alternatives to the current tax code. Unfortunately, neither the Congress nor the President have acted decisively on any of the measures studied.

Copeland, L. a. (1973). *The World's Great Speeches*. New York: Dover Publications.

Domhoff, G. W. (2005, September). *Wealth, Income, and Power*. Retrieved June 3, 2011, from Who Rules America? University of California at Santa Cruz: <http://sociology.ucsc.edu/whorulesamerica/power/wealth.html>

This volume is, as titled, a collection of great speeches. The subject of review here was the speech given by Patrick Henry on the eve of the American Revolution concerning the injustices of British Taxation on the American colonies.

Hagopian, K. (2011). The Inequity of the Progressive Income Tax. *Policy Review* , 3-27.

This outstanding journal article offers real and tangle portrayals of the current US tax code. It affords the reader with understandable parables that illustrate the unfair way that the tax code came to be and how it has been used as a political weapon.

Landau, S. (1995). *New York Times* .

This quote is simply a magnificent and succinct comment on the modern tax system.

Lee, S. A. (2006). John Linder On the Fair Tax, Gaming the Current System, and Why the Left Will Finally Get It. *Journal of Financial Planning* , 20-22.

Lode, T. (2006, March 12). *How Long is It?* Retrieved June 2, 2011, from Trygve's Digital Diary: <http://www.trygve.com/taxcode.html>

Marx, K. (1938). *Critique of the Gotha Program*. New York: International Publishers.

This book is a political pamphlet published by Marx to further influence the capitalist system in place in Germany in the late 19th Century.

National Taxpayers Union. (2008). *Who Pays Income Taxes?* Retrieved June 2, 2011, from National Taxpayers Union: <http://ntu.org/tax-basics/who-pays-income-taxes.html>

This is a reference drawn from the figures released by the Department of Revenue. It illustrates the disparity of tax payments as compare to income and percentage paid.

Rothbard, M. N. (1988). The Case Against the Flat Tax. *The Free Market Reader* , 342-362.

This journal article addresses and clarifies many of the issues associated with the proposed Flat Tax. It illustrates many pitfalls that would plague the American Taxpayer if it were implemented.

United States National Archives and Records Administration. (1995). *16th Amendment to the U.S. Constitution: Federal Income Tax (1913)*. Washington, DC: National Archives & Records Administration.

The official record of the US Constitution and text, per the US Archives.

Walenta, C. (2010). *Notes on the Amendments*. Retrieved June 3, 2011, from USConstitution.net: <http://www.usconstitution.net/constamnotes.html>

This article gives the history and text of the US 16th Amendment to the Constitution. Additionally it gives the original tax figures instituted and their impact.