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Income Tax Differentials: A Symposium

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BOOK REVIEWS

INCOME TAX DIFFERENTIALS: A SYMPOSIUM. Tax Institute Incorporated. Princeton, N. J. Pp. 258. \$6.00.

There is in the land a sense of unease about the federal tax system. It is not so much a concern about the fact that some individuals cheat on their income tax returns without being caught at it. The concern rather is that *within the law* by reason of congressional dispensation some taxpayers seem to pay at different and lower rates than others. The beneficiaries of these "relief" provisions naturally rejoice that "equity" has at last recognized their claim for special treatment and their voices, if heard at all, only ask for more of the same. But there are other voices of newspaper columnists, magazine writers, academics, an occasional congressman and even a few tax practitioners, expressing genuine concern over the increasing number of dispensary and characteristically "technical" provisions in the Internal Revenue Code.

In recognition of this growing concern the Tax Institute some time ago convened a conference on the subject of income tax differentials and invited some twenty distinguished conferees including tax lawyers, accountants, economists, a law professor and a United States Senator to participate. The result of the conference, in part at least, is to be found in this little volume reprinting the seventeen papers contributed together with some of the discussions that followed some of the papers.

This is most certainly not a book concerned with taxmanship—the art of weaning the Treasury without actually cheating. It is not a practical "how to do it book" in the sense of offering counsel on how instantly to halve a particular client's tax bill. But it can scarcely be called impractical, dealing as it does with one of the most troublesome problems of this and any time—how to apportion among the citizenry the cost of our common government. Because the format was that of a short conference with an imposing number of topics to be touched by an imposing number of speakers the volume could not be expected to offer the full fruits of complete research and it does not. The papers collected in the volume make neither exhilarating nor entertaining reading. Nonetheless, for anyone interested in contemporary concern about the course taken by Congress in revenue legislation over the past eighteen years this little collection of papers makes interesting reading indeed.

Topics covered include tax exempt income, capital gains, the so-called double tax corporate income, percentage depletion, employee stock options, earned income credit, the old age exemption, the deduction for medical expenses and desirable methods for apportioning tax reductions (when and if) among other subjects. A variety of viewpoints is reflected with occasional sharp collisions. Illustrative is the following—Professor Eisner: “You can say there are six million stockholders but probably one million or half a million of these own about 95 per cent of the stock. Mr. Casey: That’s fantastic when you say that 10 per cent of the stockholders own 95 per cent of the stock.”¹

There are occasional nuggets of information not quite in the public domain. Thus on the matter of the actual yield from the progressive feature of the personal income tax Clarence L. Turner offered the following comment: “The aggregate income tax payable (in 1956) . . . was estimated to be \$32,650 million. Of this amount 83.3 per cent, or \$27,175 million was from the basic tax of 20 per cent, and only 16.7 per cent, or \$5,475 million, was from the progressive rates.”²

For the most part the contributors to the symposium agree that reform of the federal tax structure is urgently needed and many expressed the hope that with reduction or elimination of some of the present discriminatory differentials there should be significant reduction of the top bracket rates. But overshadowing this pious hope was an apparent realization by all hands that the time is not now. This is the most troublesome problem of all. With a revenue system that increasingly contains within it special dispensations for this group and that, so that in sum a great body of the population is separately persuaded that it has an especially favorable position *vis-à-vis* the majority, how is it possible to remedy the situation? Perhaps with continuing ventilation of the “pork barrel” nature of our Internal Revenue Code it may be possible to persuade enough people that they are really the victims of a kind of confidence game and that they all (or almost all) will be better off with something approaching a fresh start. At any rate perhaps that point of view prompted the Tax Institute to sponsor the conference on income tax deferrals. Though the little volume produced by the conference is not likely to be widely read, the conference itself and the volume, to the extent that it is read, will at least enlarge the circle of those concerned with the direction taken by nearly two decades of revenue legislation. The circle of the concerned is growing.

A much more ambitious collection of papers and a conference was

1. INCOME TAX DIFFERENTIALS: A SYMPOSIUM 180 (1958).
2. *Id.* at 227.

produced under governmental sponsorship in 1955 for the Sub-Committee on Tax Policy of the Joint Committee on the Economic Report. Over 1700 pages of papers and testimony on tax differentials were published by the Government Printing Office. The quality of those papers was high and the price for the product was low. A supplement appeared in 1956 in the form of a staff analysis of the issues raised by most of the area of proposed federal tax reform. These government sponsored publications offer comprehensive and provocative commentaries on the sad state of the federal tax system. Under the indefatigable aegis of Representative Wilbur D. Mills, formerly Chairman of the Sub-Committee on Tax Policy for the Joint Committee on the Economic Report and now strategically situated as Chairman of the House Ways and Means Committee, a further government sponsored volume or volumes will emerge this fall or next spring when his Committee holds hearings on the need for reform of the federal tax structure. A number of leading economists, tax law professors and tax practitioners have been invited to contribute papers and testimony to the hearings.

Perhaps the groundswell reflected in the Tax Institute's modest volume on Income Tax Differentials and the fatter volumes issuing from the government printing office on the subject of federal tax reform will speed the day when Congress will resolutely march back up the hill of special dispensation down which it has been sliding with such ease for so long. A negative and pessimistic note must be sounded from this corner. I doubt that things will get better in the area of federal tax legislation until they get a lot worse. In my judgment only a major emergency will produce the drive needed for thorough going tax reform and even then the job will not be easy.

It is a pity that we have to work with a tax system that seems to have lost its way. Coping with the complicated and tricky provisions of the law so as to reduce tax payments to the absolute minimum—the true patriot's objective—certainly absorbs a tremendous amount of time and first rate mental energy. As suggested by William J. Casey at the Tax Institute Conference: "If all that mental energy and all that talent could be diverted to the conquest of space, we would make a much greater contribution to space conquest than an increase in the debt ceiling, and I would like to be the first to volunteer." I think Mr. Casey and his fellow conferees are doomed to be earthbound and tax-mired for many a moon to come.³

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3. *Id.* at 143.

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