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FOREWORD

It has been twenty-seven years since *Law and Contemporary Problems* last addressed an entire symposium to the subject of taxes, a matter with which it was much concerned in its early years.¹ In returning to the subject now, the editors have asked the contributors to address themselves to the hopes for reform of the federal income tax system, with emphasis on one particular and widely advocated goal of reform—simplification of the tax laws.

Most tax specialists would agree in principle that a simple law is preferable to a complex one. Uniformity in application and administration and reduction in the costs of compliance and enforcement are some of the substantial benefits to be derived from simplicity. Nevertheless, simplification is a goal which has not been realized and which seldom influences specific decisions on tax policy. Some of the reasons for this can be found in the symposium. For one thing, Professor Surrey notes that an income tax, if it is to operate with fairness in a complex economic environment, is inherently complex. Most persons would naturally assign a higher priority to equity than to simplification, and the two goals seem often to be inconsistent. Obviously the simplest kind of income tax—one on gross receipts—would be extremely inequitable, and equity is achievable only at the cost of adding complexity in the form of deductions and definitions of taxable events.

Nevertheless, most of the complexities in the present Code have resulted from attempts to use the tax system to accomplish purposes other than equitable distribution of the tax burden, a practice discussed at length by Professor Rice. Inequities introduced by many of these provisions have begun to attract criticism, however, and most reform efforts are now directed towards their elimination. But once again it appears that increased equity can be obtained only by introducing new complexities, since political pressures invariably result in the narrowing of “loopholes” rather than their elimination. Thus, the Tax Reform Act of 1969 added new restrictions to many of the provisions that had attracted the reformers’ fire, making each more complicated in the end and leaving the taxpayer-beneficiaries of those provisions in a position of having to contend with greater complexity in order to reap advantages that were themselves substantially reduced by rate changes for both ordinary income and capital gains and by the invention of a complicated new tax, the minimum tax

¹ See *Symposium—Excess Profits Taxation*, 10 LAW & CONTEMP. PROB. 1 (1943); *Symposium—Consumption Taxes*, 8 LAW & CONTEMP. PROB. 415 (1941); *Symposium—Federal Income and Estate Taxation*, 7 LAW & CONTEMP. PROB. 161 (1940); *Symposium—The Collection of Real Property Taxes*, 3 LAW & CONTEMP. PROB. 335 (1936). Symposia on other subjects have, of course, frequently included tax-related articles.

on tax preferences. (It is almost as if Congress adopted a policy of eliminating loopholes not by repealing them but by attempting to eliminate any net return from their exploitation!)

Simplification is not, however, an impossible dream. As Dr. Woodworth's article demonstrates, the Tax Reform Act of 1969, contrary to widespread belief, did in fact simplify compliance for large numbers of low-income wage earners, and continued emphasis on simplification at this level seems likely. On a more fundamental level, Professors Break and Vickrey describe ways in which the income tax could be vastly simplified without sacrificing—indeed, perhaps increasing—equity. Other possibilities exist. Reducing distinctions among different forms of accretion of wealth and eliminating personal, non-income-producing deductions should tend to increase the fairness of the tax as well as to simplify its determination.

Greater attention to the goal of simplification seems desirable, and indeed we may be reaching that point where continued confidence in our tax system will demand it. Even taxpayers whose only income consists of wages and whose deductions do not exceed the standard deduction believe that the tax is too complicated. Since the tax operates quite simply as to them, the reasons for their complaints must be sought elsewhere than in their personal compliance problems. It seems likely that their complaint arises because the law is too complex for them to understand where they fit in its over-all scheme. Knowing only that taxation plays an important role in their economic life, the great majority of taxpayers have no basis for confidence that they are paying their fair share and no more. In this context, simplification of the personal compliance problems of these taxpayers, as in the 1969 act, may merely strengthen their suspicion that complexity is itself the vehicle of inequity, operating purely for the benefit of the privileged classes.

Our tax system is shaped in the political arena, and the need for an informed electorate is apparent. If only a few technicians and elected officials understand the operations of the system and where its burdens fall, then tax policy will inevitably be formed through a highly aristocratic political process. In such an environment it is not surprising that the tax law is sometimes used for the virtually private benefit of a relatively small number of taxpayers. It may be, of course, that the law must retain a degree of complexity that would make a truly informed electorate an impossible attainment. But the perceptions of the public are as important as its level of sophistication, and, if complexity contributes to public disillusionment with the management and equitableness of the tax system, the consensus necessary to the continued success of taxpayer self-assessment could be jeopardized. At a time when the fairness of government in dealing with its citizens is seriously in question in all fields, redoubled attention to the elimination of tax privileges, or the appearance thereof, is called for, perhaps through the implementation of radical changes and simplification along the lines suggested in some of the articles that follow.

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