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The Progressive Income Tax in U.S. History

America's founders rejected the income tax entirely, but when they spoke of taxes they recognized the need for uniformity and equal protection to all citizens. "[A]ll duties, imposts and excises shall be uniform throughout the United States," reads the U.S. Constitution. And 80 years later, in the same spirit, the Fourteenth Amendment promised "equal protection of the laws" to all citizens.

In other words, the principle behind the progressive income tax—the more you earn, the larger the percentage of tax you must pay—would have been appalling to the founders. They recognized that, in James Madison's words, "the spirit of party and faction" would prevail if Congress could tax one group of citizens and confer the benefits on another group.

In Federalist No. 10, Madison asked, "[W]hat are the different classes of legislators but advocates and parties to the causes which they determine?" He went on to say, "The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice."

During the 1800s economic thinking in the United States usually conformed to the founders' guiding principles of uniformity and equal protection. One exception was during the Civil War, when a progressive income tax was first enacted. Interestingly, the tax had a maximum rate of 10 percent, and it was repealed in 1872. As Representative Justin Morrill of Vermont observed, "in this country we neither create nor tolerate any distinction of rank, race, or color, and should not tolerate anything else than entire equality in our taxes."

When Congress passed another income tax in 1894—one that only hit the top 2 percent of wealth holders—the Supreme Court declared it unconstitutional. Stephen Field, a veteran of 30 years on the Court, was outraged that Congress would pass a bill to tax a small voting bloc and exempt the larger group of voters. At age 77, Field not only repudiated Congress's actions, he also penned a prophecy. A small progressive tax, he predicted, "will be but the stepping stone to others, larger and more sweeping, till our political contests will become a war of the poor against the rich."

In 1913, almost 20 years later, the ideas of uniform taxation and equal protection of the law for all citizens were overturned when a constitutional amendment permitting a progressive income tax was ratified. Congress first set the top rate at a mere 7 percent—and married couples were only taxed on income over $4,000 (equivalent to $80,000 today). During the tax debate, William Shelton, a Georgian, supported the income tax "because none of us here have $4,000 incomes, and somebody else will have to pay the tax." As Madison and Field had feared, the seeds of class warfare were sown in the

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strategy of different rates for different incomes.

It took the politicians less than one generation to hike the tax rates and fulfill Field's prophecy. Herbert Hoover and Franklin Roosevelt, using the excuses of depression and war, permanently enlarged the income tax. Under Hoover, the top rate was hiked from 24 to 63 percent. Under Roosevelt, the top rate was again raised—first to 79 percent and later to 90 percent. In 1941, in fact, Roosevelt proposed a 99.5 percent marginal rate on all incomes over $100,000. "Why not?" he said when an adviser questioned him.

After that proposal failed, Roosevelt issued an executive order to tax all income over $25,000 at the astonishing rate of 100 percent. Congress later repealed the order, but still allowed top incomes to be taxed at a marginal rate of 90 percent.

Subsidies for Friends, Audits for Enemies

Roosevelt thus became the first president to practice on a large scale what Madison had called "the spirit of party and faction" and what Field had called the "war of the poor against the rich." With a steeply progressive income tax in place, Roosevelt used the federal treasury to reward, among others, farmers (who were paid not to plant crops), silver miners (who had the price of their product artificially inflated), and southerners in the vote-rich Tennessee Valley (with dams and cheap electricity).

In the 1936 presidential election, Senator Hiram Johnson of California, a Roosevelt supporter, watched in amazement as the President mobilized "the different agencies of government" to dole out subsidies for votes. "He starts with probably 8 million votes bought," Johnson calculated. "The other side has to buy them one by one, and they cannot hope to match his money." In that campaign, Roosevelt defeated the Republican Alf Landon by an electoral vote of 523–8.

The flip side of rewards for supporters was investigations of opponents. Senator James Couzens of Michigan, who supported Roosevelt even more vigorously than Johnson did, had said before Roosevelt took office, "Give me control of the Bureau of Internal Revenue and I will run the politics of the country."

Couzens lived to see the bureau begin to investigate Roosevelt's opponents. It started with an investigation of Senator Huey Long of Louisiana, who had threatened to run for president against Roosevelt. Next came an audit of William Randolph Hearst, whose newspaper empire strongly opposed Roosevelt for president in 1936. Moses Annenberg, publisher of the *Philadelphia Inquirer*, vehemently opposed Roosevelt's re-election campaign in 1936; the next year he had a full-scale audit, which was followed by a prison term.

Elliott Roosevelt, the president's son, conceded in 1975 that "my father may have been the originator of the concept of employing the IRS as a weapon of political retribution." But he was quick to add that "each of his successors followed his lead." That is a key point: once the machinery of retribution is in place, it is hard for politicians to resist using it. When Richard Nixon, a Republican, became president, he sounded like his Democrat counterparts when he described whom he wanted as commissioner of internal revenue. Nixon said, "I want to be sure that he is . . . ruthless . . . that he will do what he is told, that every income-tax return I want to see, I see. That he will go after our enemies and not go after our friends. It is as simple as that."

If we want to lessen "the spirit of party and faction," as Madison recommended, and if we want to avoid a "war of the poor against the rich," as Field anticipated, we would do well to scrap the progressive income tax. □