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## Tax History: Complexity: The Original Sin of the Income Tax

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Complexity has been a problem for the income tax since it began. It's tempting to say that people started complaining before the ink was even dry on the Revenue Act of 1913. But in fact, they were griping while lawmakers were still writing in pencil.

Six months before Congress passed the income tax, critics were hard at work ferreting out its deficiencies. "The practical workings of the income tax law, as proposed, have come in for much study in the last few days by corporations and other employers, lawyers, economists and authorities," *The New York Times* reported in April 1913. "The phraseology of the bill is curiously involved, so that this study has not always been particularly illuminating."<sup>1</sup>

*The Wall Street Journal* was even more critical. "Some of the efforts of the lawmakers at Washington to express in intelligible and legally binding English their ideas of what they want to enact are nothing short of pathetic," the paper declared in September of that year.<sup>2</sup>

The *Journal* had been capitalizing on the confusing language and artless drafting of the pending tax bill. That June the paper had started advertising a special explanatory series. "Do you understand the income tax bill?" the editors asked in their promotional material. "If you do not, this will tell you how you may learn all about its many intricacies, the infinite confusion it will cause, its possible unconstitutionality, and its injustice."<sup>3</sup>

That breathless language was only a start. The *Journal* also listed some of the new law's most serious problems, at least as revealed in early drafts. The paper asked, "Do you know --

- "That it would tax the poor man for the benefit of the rich?" (More of a feature than a bug, of course.)
- "That it would force the employer, the tenant or other debtor to collect the tax for the Government to the great inconvenience and humiliation of the employe [sic] and creditor?" (An exaggeration of the law's short-lived withholding provisions.)
- "That it would in many instances tax the same money over and over again?" (Depending on how you were doing your counting.)
- "That it would leave loopholes of escape from taxation on the part of the rich through the simple expedient of incorporation?" (Not deliberately, to be sure, and not at all, according to the Treasury Department.)

The *Journal* was no friend to the income tax -- not in theory and certainly not in practice -- so its overheated commentary was hardly a surprise. But the paper had found a spot where the law was vulnerable. Endorsing the income tax was relatively easy for members of Congress, once the political stars had aligned. But actually drafting a workable version of it was something else entirely.

The difficulty of drafting a new tax law was no great surprise. Ambiguity, after all, is almost unavoidable in the early stages of drafting legislation. And flat-out error has been known to creep in as well. Both are even harder to avoid when drafting something entirely new. Lawmakers were not beginning wholly from scratch; they made good use of historical precedent (the Civil War income tax) and foreign experience (especially in Great Britain).

But the 1913 law, as drafted and even as enacted, was certainly a work in progress. No sooner had Congress passed it than diligent lawmakers set about trying to repair its deficiencies.

Unfortunately, they didn't have much time to iron out the problems before this infant tax began to grow up. The outbreak of a European war in 1914 put new pressures on the tax system, despite the United States' tenuous neutrality. Lawmakers began to raise rates and lower exemptions, and by the time the United States joined the fighting, the income tax looked very different than it had just a few years earlier. The war years, moreover, worked still more change on the levy.

Among other things, the scope of the tax changed dramatically. In its first year, the income tax applied to less than 1 percent of American families, by most estimates. By 1920, that number had reached 17 percent. As a result, the constituency for *Journal*-style outrage was considerably broader. The income tax of 1920 was not just a rich person's problem, but a middle-income taxpayer's burden, too.

Not surprisingly, new taxpayers were unhappy about many of the same things that old taxpayers had been complaining about for years. In particular, they were mad about complexity. The financial burden of the tax was a sore spot, of course -- no one likes paying taxes, especially in the post-patriotic hangover that follows a war. But complexity was the focal point of many postwar complaints.

"Everybody is fuming over income tax blanks, which under the law, must be filed before March 15 by the 4,000,000 persons who must make returns," the *Times* reported in March 1920. "Out of the nation-wide irritation, questions new and old stand forth and demand answers."<sup>4</sup>

Indeed, the old questions were the most pressing. "Why can't we have a simpler method?" the *Times* asked rhetorically. "What are the excuses given by members of Congress for the complications? Will they try to simplify the procedure?"

The paper offered little hope to beleaguered taxpayers. "In its nature a law attempting to reach incomes of all kinds, to search out efforts to hide taxable income, cannot run clear of complications," the paper observed.

Most of these complications, moreover, were not a function of government revenue needs, at least not directly. Rather, they stemmed from various preferences and accommodations designed to make the tax more equitable. "This essential complication was added to, it is asserted, by the demands of various interests which set forth their claims forcibly while the tax bills were under consideration," the paper explained. "Out of all the pulling and hauling, every divergence based on the demand that special consideration was due had one unflinching effect. Each exemption added one more complication to the difficulties encountered in administering the law."

Simply ignoring the need for relief provisions was no help, the paper noted. "Where exceptions were not explicitly drawn, the problem was augmented by uncertainty of interpretation. Areas of doubt were created by the demands of those who later were to join in the chorus of complaint over the difficulty in complying with the law," the paper said.

Growing complexity had given birth to a new sort of professional, the *Times* observed: the tax practitioner. "A new class of experts has grown up under the law," the *Times* reported. "In Washington last week cards were passed on the street, as for some new restaurant, offering the services of income tax experts. Large concerns employ specialists at \$10,000 a year, who put in all their time in preparation for making the annual tax returns." (Adjusted for inflation, those experts were making the modern-day equivalent of about \$115,000.)

Tax experts earned their money, at least in part, by making sense of tax forms. As a general rule, taxpayers hated the forms, which seemed to follow their own sort of convoluted logic, rather than charting a sensible path through the tax law. "In a word, from the time the taxpayer glanced at the income tax bills, it was repellent," the *Times* wrote.

Americans had a right to expect something better. "What the income tax payer demands, it is asserted, is a form and a manner of computation freed from the present intricacies," the *Times* declared. "Something the average man can make out correctly, without having to consult the tax

office or an expert at so much an hour."

But Americans weren't likely to get much help on that front, at least over the short term. The *Times* concluded its survey of tax complexity by interviewing two members of the House Ways and Means Committee. The paper asked what they intended to do about the problem. How might they come to the rescue of their confused constituents?

Rep. Henry W. Watson, a Pennsylvania Republican, offered plenty of sympathy and at least some hope for improvement. He promised to lead an effort at simplification, surveying taxpayers about their needs and developing proposals to make the income tax less taxing. The most serious issue was actually overpayment. Too many Americans were paying too much, simply because they couldn't understand the law. "I know a man who employed this year an expert who found that he had paid \$2,000 too much last year," Watson said. "The number of errors shows there are too many complications."

Watson was particularly unhappy about the lack of official assistance available to taxpayers from the Bureau of Internal Revenue. "My correspondents write that they are unable to obtain answers to questions put to the bureau or that their complaints are not attended to," Watson said. The agency needed more staff, if only to get refunds out to taxpayers more quickly. (There might be a lesson in that observation for contemporary lawmakers tasked with funding the IRS.)

But if Watson was a voice of hope (or at least good intentions), his Democratic counterpart was altogether less sympathetic. Rep. Cordell Hull of Tennessee had been a pivotal figure in enacting the income tax. And he, for one, was unconvinced that it was in serious trouble. Complexity was simply a fact of life, he said.

"It should be remembered that an income tax is in its character a complex and intricate matter, because it deals with business which grows more and more complex," Hull lectured the *Times*. "In England, where they have had an income tax for eighty years, this has long been recognized."

Hull promised to consider "gradual" simplification proposals. But he was disinclined to coddle taxpayers too much. Ultimately, people should solve their own problems, he said, adding, "If each one reads the instructions first, carefully, there would not be much difficulty now."

They talked differently to constituents back in the day.

## FOOTNOTES

<sup>1</sup> "Find Loopholes in Income Tax Law," *The New York Times*, Apr. 13, 1913.

<sup>2</sup> "Some Income Tax Provisions in Latest State of the Bill," *The Wall Street Journal*, Sept. 15, 1913.

<sup>3</sup> "Do You Understand the Income Tax Bill?" (advertisement), *The Wall Street Journal*, June 15, 1913.

<sup>4</sup> "Simplify the Income Tax? -- Perhaps, but Not Soon," *The New York Times*, Mar. 7, 1920.

## END OF FOOTNOTES