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Tax Tyrannies

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Justice Oliver Wendell Holmes famously said, "Taxes are what we pay for civilized society," while his predecessor on the U.S. Supreme Court, Chief Justice John Marshall, also correctly noted, "The power to tax is the power to destroy."

At what point does taxation move from that necessary for proper government to tyranny?

The American Founding Fathers, in the Declaration of Independence, state as one of their grievances against King George III, that he imposed "taxes on us without our Consent." "No taxation without representation" was a rallying cry of the Revolution, and from that time it has been widely agreed that imposition of a tax without the consent of the governed is a form of tax tyranny. This is a reason why taxation under democratic regimes has greater moral legitimacy than taxation under nondemocratic regimes.

As democracy has spread throughout the world, fewer people are subject to this form of tax tyranny. However, in recent years some countries — primarily in the European Union — have tried, under the guise of "tax harmonization" and "unfair tax practices," to impose their desire for higher taxes on low-tax states. International organizations such as the United Nations and the Organization for Economic Cooperation and Development (OECD) have also made attempts to impose taxes on others without their just consent.

Another form of tax tyranny exists when governments impose tax rates above the revenue maximizing rate. It has been known for centuries that every tax has a rate above which it will be bring in no further revenue because people will cease engaging in the taxed activity, whether it is work, saving, investment or consumption of the taxed goods and services. Such high tax rates encourage development of underground or "black" markets, and/or the exodus of the particular activity.

For instance, high rates of taxation on capital cause people to move their money to lower tax rate jurisdictions. Extremely high rates of taxation on labor can cause people to even move from a given country or state. There are many well-known cases where highly paid movie stars, athletes and others have moved from their oppressive high tax rate home countries to more tax friendly places.

Unfortunately, many governments, including that of the United States, still have taxes and tax rates above the revenue maximizing rate. When this is known to be true, as it frequently is, it is nothing more than a form of tax tyranny imposed by a group of envious or mean-spirited officials. Occasionally, governments deliberately use taxation to alter certain behaviors, such as taxes on tobacco products, for which purposes tax revenue considerations are secondary.

Another form of tax tyranny exists when coercive taxation is used to fund government programs of little or no value, or where the expenditure programs are rife with corruption or mismanagement.

In his 1886 annual message to Congress, President Grover Cleveland stated, "When more of the people's sustenance is exacted through the form of taxation than is necessary to meet the obligations of government and expenses of its economical administration, such exaction becomes ruthless extortion and a violation of the fundamental principles of a free government."

Governments by their very nature tend not to be as well- and as efficiently managed as many private sector activities where people are spending their own money, but all too many political leaders in almost every country largely ignore their fiduciary responsibilities to the taxpayers by tolerating high levels of corruption and/or mismanagement. President Calvin Coolidge stated it succinctly, "Collecting more taxes than is absolutely necessary is legalized robbery."

Tax tyranny can exist when members of one group are singled out to pay a disproportionate share of the tax because of their religion, ethnic group, gender or other circumstance. Nowadays, this is most often seen in government abusing the idea of progressive tax rates. For instance, in the United States, the top 1 percent of the taxpayers pay 40 percent of the income tax, yet they have only 21 percent of the income. At the same time, the bottom 50 percent of the taxpayers pay only 3 percent of the tax while having 12 percent of the income.

Some politicians want to further increase the tax burden on the top 1 percent while reducing and even eliminating the tax all together on the bottom 50 percent.

When a majority shifts almost all of the tax burden to a small minority who must pay a grossly disproportionate share of their income, it smacks of tax tyranny. Two-dozen countries, many of whose citizens have suffered under the tyranny of communism, have instituted "flat taxes" to avoid this form of tax tyranny.

Finally, Nobel Laureate Milton Friedman said, "Inflation is taxation without legislation." Inflation is caused by government central banks increasing the money supply too rapidly. Taxing phantom capital gains due solely to inflation, or not allowing business to deduct true depreciation costs because of inflation, or not indexing tax rates to reflect inflation, are all types of tax tyranny; given that irresponsible government is the source of inflation.

Tax tyrannies reduce economic opportunity, job and income growth and undermine civil society. Tax tyranny will persist so long as politicians can buy the votes of one group of citizens by promising to shift the burden of government to others, and as long as judges continue to tolerate improperly levied taxes and tax discrimination.

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