



Professor Crosskey delivering his lecture on Chief Justice Marshall to a Mandel Hall audience

Blum on Tax Policy

[The following is a summary of the testimony given before the Subcommittee on Tax Policy of the Joint Committee on the Economic Report, United States Congress, by Professor Walter J. Blum.]

Over the years our income tax has become one in which special preferential treatment has become the rule rather than the exception. We now have a large assortment of provisions giving preferences to particular kinds of taxpayers, to certain types of receipts, to some categories of business expenses, to certain forms of personal consumption, and even to particular kinds of savings. The result is that it is very hard to compare the tax burdens of different people.

There are no general data on how this patchwork of special provisions affects the over-all morale of taxpayers and their advisers. Of course the taxpayers who come out ahead as a result of their preferences are not likely to be

unhappy about them. And there is little doubt that some preferences have wider popular appeal than others. But the important morale question is how the whole network of preferences affects the morale of the taxpaying public. On this issue we are able to form only some partial conclusions.

We can be certain that the host of special provisions complicates the tax. This puts a greater load on taxpayers who make out their own returns and causes many to turn for help to advisers—ranging from fully qualified professionals to store-front “tax experts.” These self-styled experts often operate in a manner which is hardly calculated to improve their customers’ respect for our income tax.

We know that the complications make the income tax less intelligible to taxpayers. There are signs that some people have come to doubt the fairness of the tax in part because they cannot understand it.

We are sure that the special provisions cause a great

deal of time and energy to be spent in tax planning. Most of this is wholly unproductive, and it often produces behavior which, taxes apart, might not be advantageous to the taxpayer or to society.

We have evidence that special provisions sometimes are temptations to loose reporting practices on the part of taxpayers and nonprofessional "tax experts." There is an understandable pressure to stretch preferences to cover one's own situation even when it falls on the wrong side of the arbitrary line by which the special treatment is defined.

We can be confident that the complexities accompanying the conglomeration of preferences have increased the difficulty of enforcing the tax. More taxpayers seek assistance from the government; more mistakes are made in preparing returns; more chances are taken by taxpayers in interpreting the preferential provisions to suit their needs; and more unintended loopholes are unearthed as tax planning expands in breadth. These handicaps to enforcement in turn are likely to cause taxpayers to run even greater risks in helping themselves to unauthorized benefits in computing their taxes.

Finally, we are becoming aware that the receptivity of Congress to special legislation has contributed to making competent tax advisers cynical about the justice of our system. Some have become special pleaders to such an extent that they are unable to identify themselves with the interest of the whole public in tax matters. Not only is their usefulness in improving our tax system impaired but their cynicism is easily caught by susceptible clients.

These are dangers to taxpayer morale from crisscrossing our income tax with special provisions. Whether they are offset by the good will and appreciation on the part of the beneficiaries of the preferences is an open question. Certainly the advisability of any particular preference should depend primarily on considerations of equity and economic or social policy. But the dangers pointed out should not be overlooked. While no single special provision is likely to produce them, a large collection of preferences is clearly capable of doing so.

In this connection what is perhaps most important is that almost every preference tends to breed progenies. If the history of special provisions shows anything, it is simply this: whenever a preference is given in one situation, there will always be taxpayers who can plausibly claim that their case is analogous and therefore also deserves special treatment.

And so in passing on the merits of any suggested preference, two general considerations are worth keeping in mind. (1) A large body of special provisions might well have undesirable effects on the morale of taxpayers as a whole. (2) Any body of preferences will always tend to grow unless the legislature has a strong policy against them.