

News Analysis: The Thorndike Challenge

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Contributing editor Joseph J. Thorndike challenges Washington politicians to release their tax returns.

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The recent tax troubles of Timothy Geithner, Tom Daschle, and Nancy Killefer (not to mention Charlie Rangel) raise a serious question: Do we have a compliance crisis in the capital?

Let's find out. I challenge the nation's top political leaders to release their tax returns. And I mean *all* our leaders. Every member of Congress, every Cabinet secretary, every member of the White House senior staff.

Ridiculous? Not really. We already expect presidents to release their returns. And vice presidents, and presidential candidates, and all the associated spouses. Who decided to draw the line at the White House door? Members of Congress occupy a position of public trust every bit as serious, if slightly less exalted, than the president. So do members of the Cabinet and other high-ranking officials. If we expect presidents to sacrifice their privacy, why not the rest of them?

Presidential tax returns have been offered to the public since the early 1970s. For the last 20 years or so, presidential candidates have released their returns, too. And since 1997, Tax Analysts has archived all these documents as part of the Tax History Project (available at <http://www.taxhistory.org>).

Nothing compels the disclosure of these presidential returns. Nothing, that is, except precedent and public opinion. Some presidents and vice presidents -- notably George W. Bush and Dick Cheney -- have been reluctant to do a fiscal Full Monty (hat tip to Arizona State law Prof. Marjorie E. Kornhauser for the felicitous phrasing: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=712061). Candidates and their spouses have also dragged their feet from time to time. Eventually, almost all have agreed to at least partial disclosure.

Other politicians won't relish the prospect of releasing their returns. It requires an undeniable sacrifice of personal privacy. But they might take some comfort in the rigors of what I call social auditing. Millions of eyes on a tax return -- including plenty of expert ones -- would certainly uncover any problems in short order. Then our delinquent politicians could fix problems promptly, avoiding the opprobrium that attached to the Johnny-come-lately compliance of our recent, beleaguered nominees.

Once upon a time, social auditing was enshrined in law. During the Civil War, assessment lists for the nascent income tax were a matter of public record. "The object of the law seems to have been to afford every tax-payer an opportunity of ascertaining what returns his neighbors have made," noted the Commissioner of Internal Revenue in 1865. "He is interested in these returns, because the burden of the national duties is a common one, and every person should be required to pay his due proportion of it."

The public release of politicians' tax returns would have several salubrious effects. It would put to rest the (apparently legitimate) suspicion that politicians play by a different set of rules than the rest of us. (Well, it would actually *create* a different set of rules, but in a good way.)

It would throw the national spotlight on tax compliance, underscoring an issue critical to civic health. The social auditing of political tax returns might even encourage people to pay more attention to their own fiscal responsibilities.

But perhaps most satisfying (if arguably less important), the public release of political tax returns would encourage a little humility among the professionally indignant. The recent brouhaha surrounding nominee returns has prompted a cascade of cant. It makes you wonder: How many of these erstwhile colleagues would survive the sort of intense tax vetting that these nominees have received? Not many, I suspect. Maybe not even most.

I don't mean to excuse the tax problems of Geithner, Daschle, Killefer, and the rest. But neither can I tolerate the sort of self-righteous blather that surrounds their mistakes. And I do believe these are *mistakes*, not deliberate cheating. It's simply not plausible to suggest that self-interested politicians would risk their (potentially lucrative) future for some (comparatively modest) tax savings in the present.

I don't believe these nominees are venal. Careless, certainly. Probably clueless, too -- don't take for granted any reasonable understanding of the tax system, even among former members (or chairs!) of the taxwriting committees.

But like most Americans, politicians approach their tax duties from a distance. Almost certainly, the vast majority seek professional assistance in completing their returns. Those crazy few who go it alone (like Geithner, apparently) invariably turn to TurboTax. But neither route requires -- or even encourages -- any real understanding of the tax system. Politicians, like almost everyone else, are alienated from their tax responsibilities. Which is a sad statement, considering that paying taxes is a crucial element of civic culture.

Tax blogger extraordinaire James Maule has proposed a remedy for that problem, at least for denizens of Capitol Hill: All members of Congress could be required to file on their own. "My rationale is that if these folks were compelled to suffer through what other taxpayers must endure," he says, "they might think twice before using the tax law to accomplish what ought to be handled by the Department of Energy, the Department of Commerce, the Department of Education, and a long list of other agencies that somehow cannot achieve their objectives without assistance from the Internal Revenue Service."

What's not to like? Well, one thing. "After members of Congress prepare their returns, they would be examined by tax professionals before they were filed," Maule says. "Otherwise, there's too high a risk that all or nearly all of the returns would be wrong."

For my part, I say we dispense with the professional backstop. After all, it didn't seem to help Daschle. Instead, let's all take a look. Then we can be sure they've gotten it right.

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