The Origins of the American Income Tax: The Revenue Act of 1894 and Its Aftermath

Reviewed by Joseph J. Thorndike

You hear a lot of whining these days about the decline of civility in American politics. And on first blush, it seems a reasonable complaint. Republicans and Democrats seem fascinated with vituperative posturing, sacrificing good policy on the altar of political expedience.

Anyone who thinks it was better in the old days should consider the 1890s. Tax debates in that pivotal era were bitter and unpleasant. Opponents of the nascent federal income tax — enacted by Congress in 1894 but overturned the following year by a hostile Supreme Court — indulged their rhetorical fancies. “In a republic like ours,” declared Sen. John Sherman, “where all men are equal, this attempt to array the rich against the poor or the poor against the rich is socialism, communism, devilism.”

Make Tom DeLay sound pretty levelheaded, no?

Richard Joseph has written a worthy history of the contentious tax debates that swirled around the turn of the 20th century. Focusing on the stillborn income tax of 1894, he sets out to explain the sociopolitical origins of the modern tax regime.

Where to Start the Story?

Why start with 1894? Because the income tax enacted that year became the model for later, more durable legislation. Perhaps even more important, tax debates of the early 20th century were little more than a rehash of earlier arguments. “I discovered that during this period, the political philosophy of income taxation was more fully articulated,” Joseph writes of the 1890s. “This finding led me to believe that the social origins of the American income tax lay not in the twentieth century, as some might suppose, but rather in the nineteenth century.” Fair enough, although that sort of backward glance might be cast even further: Many of the arguments resonating through the Capitol in 1894 were echoes of even older Civil War debates over income taxation.

But we all have to start somewhere, and Joseph starts in 1894. The income tax enacted that year, he contends, was designed “to shift the burden from the less wealthy to the wealthy.” Tariff duties were distinctly regressive, and Democrats had been arguing for years that rich Americans should be paying more. Lawmakers finally agreed, imposing a modest, 2 percent flat tax on corporate and individual income. (Joseph points out, however, that the tax treated any net increase in wealth as a form of income, including inheritances and gifts.) The tax was not designed to redistribute wealth or restructure society. Rather, it was designed to redistribute the tax burden and restructure the revenue system. Still, it was an important triumph for progressive ideology.

By emphasizing the progressive intent behind the law, Joseph differs with historian Robert Stanley, who has identified a more conservative impulse behind the legislation. According to Stanley, the 1894 levy was designed to forestall more radical alternatives, including a more progressive income tax. As such, it was a tool for protecting the status quo, not a lever for social and economic reform. Give the people nothing and they will revolt, Stanley suggests; give them a little, and they will leave the architecture of oligarchic capitalism largely unmoled.

Stanley’s argument was provocative when he offered it more than a decade ago. Growing out of the New Left historiographical school known as “corporate liberalism,” it stood conventional wisdom on its head. But Stanley was wrong; his analysis unreasonably diminished the progressive import of the modern income tax. Indeed, contemporary opponents of the 1894 law seemed to have a clear understanding of what was at stake. Their intemperate denunciations of the income tax reflected a keen appreciation for its transformative potential.

By focusing on the genuinely reformist ideology behind the modern income tax, Joseph adds to the growing body of literature that challenges New Left interpretations of American tax history generally and tax history in particular. His conclusions echo those of other scholars writing about that era, including Ajay Mehrotra and Elliot Brownlee.

Joseph takes special care to explain the origins of the corporate income tax, illuminating the political and cultural history of this controversial levy. As it happens, the subject has attracted considerable attention in recent years, especially from legal historians: Reuven Avinah, Marjorie Kornhauser, and Steven Bank have developed a lively debate around entity theory and the corporate income tax. But Joseph does a good job laying out the issues, noting the modern relevance of this not-so-moldy oldie in the annals of American taxation.

Historiographical Strawmen

In fact, Joseph’s discussion of the corporate tax demonstrates my only important issue with the book: It is less novel, both historically and historiographically, than Joseph seems to believe. He has clearly read widely and carefully in the literature of American tax history. Indeed, he begins the book with a lengthy, if somewhat overwrought, historiographical essay. He aptly lays out his
own methodological and analytical assumptions, while deftly describing the work of other scholars.

But some of his key distinctions seem strained. He sets up a variety of strawmen, complaining that modern tax scholarship has become too technical, too legalistic. “What has happened over the years has been the transformation of tax scholarship from the social and philosophical to the legalistic and technical,” he writes. And while most scholars would agree that history is important, he claims, they have a narrow sense of what constitutes relevant history:

Most believe that case history is relevant in deciphering the meaning of the statutory language. Others view the legislative history of particular code provisions as pertinent. Still others find revealing the administrative history of the tax. Few, if any, attach significance to the social history of the tax, that for it is law, not society, that supplies the substance of income taxation — or so it seems. [all italics in the original]

That statement represents a gross misreading of recent historiography. Over the past 20 years, numerous historians, sociologists, and political scientists have illuminated the social history of the revenue state. And even legal historians, who might be expected to take a narrower view, don’t deserve such shabby treatment. Indeed, some of the most important work on tax history during the last decade has been done by lawyers, and they have almost uniformly stressed the importance of social, political, and cultural factors in the evolution of the modern revenue state.

Joseph also seems wedded to a myopic view of American tax history. He focuses narrowly on the 1890s, which is reasonable enough. But he insists on treating subsequent periods as an epilogue to that admittedly pivotal era. For instance, he casts the tax debates of the 1920s and 1930s as largely technical. “It was during this era that Edwin Seligman belabored the issue of double taxation, T.S. Adams perfected his foreign tax credit, and Henry Simons redefined the concept of income,” Joseph observes. While important, those topics are hardly the stuff of grand historical narrative.

Scholars of interwar years increasingly took the institution of the income tax for granted, Joseph insists. “In the process, there was always a tendency to reify the tax, to purge it of its social and political content.” Really? Try telling that to Andrew Mellon, Calvin Coolidge, and Franklin Roosevelt. Tax debates of the interwar years reverberated with the rhetoric of class conflict. Sure, the income tax was taken for granted, at least after the early 1920s. But the nature of the income tax was the subject of lively debate.

And that nature changed dramatically over time. Indeed, it’s impossible to understand the evolution of the modern income tax without regard for several critical episodes that came well after Joseph’s era, especially World Wars I and II. Those fiscal watersheds brought a change in kind, not just degree, to the income tax first enacted in 1894. Absent those changes, the tax might have remained progressive window dressing for an otherwise regressive tax regime rooted in consumption levies.

In other words, tax history didn’t end in 1894. Not even in 1913. The ideas that Joseph so deftly elucidates developed for the next 100 years or so. His analysis would be more convincing if he acknowledged the crucial importance of later tax debates in shaping the history of American income taxation, rather than casting them aside as epiphenomenal afterthoughts to the great debate of the 1890s.

That being said, this is a fine book in many important respects. Joseph offers a close, nuanced reading of the debate over income taxation as it unfolded in the last years of the 19th century. He successfully illuminates the moral and political case for progressive taxation. In doing so, he helps bolster the proposition — advanced by a range of recent scholars — that those ideas have been central to the development of American taxation.

Joseph J. Thorndike is a historian and contributing editor with Tax Analysts.