



Protecting the Rights of Taxpayers

by Amy K. Frantz

Despite varying views on how much or how little the government should do, most people would agree that at least some amount of taxation is necessary to fund government services. The problem is that governments tend to “grow in coercive power,” collecting more and more of our tax dollars. Gary Wolfram looks at the fundamental question of how to form a government that will protect taxpayers from the coercive power of those in control in “Taxpayers Rights and the Fiscal Constitution,” a chapter from *POLITICS, TAXATION, AND THE RULE OF LAW*, a new book from Public Interest Institute.

Wolfram first looks at what the political philosophers had to say about the rights of individuals and the role of government. John Locke believed that we have a natural right to our property, ourselves, and whatever we produce through our own work effort. Individuals form governments for the protection of these natural rights.

Frederic Bastiat comes to a similar conclusion, that each person has the right to defend his person, liberty, and property, and that individuals can join together to collectively protect these rights, but this government should be limited only to the protection of those rights. Government should not be used to take from one person to give to another; this would be “legalized plunder,” and any laws of this kind should be abolished without delay.

Friedrich Hayek believes that laws must have certain characteristics if they are to be acceptable to the people. Laws should be general, not targeted toward a certain individual, and predictable. Citizens should be able to know what the laws are, and laws should be written so that individuals are able to comply with them. The laws should apply equally to all. If these standards are met, it will be difficult for a government to coerce its citizens.

Wolfram next takes Hayek’s requirements and applies them to tax laws. Tax laws should be general, not providing special benefits or burdens to particular taxpayers because they are favored or disliked by those in power. If individuals and businesses are to be able to make business and investment decisions, tax laws must be predictable and able to be known by all. Compliance with tax laws should not require prohibitively complicated or expensive record keeping. Finally, two taxpayers with similar circumstances should face a similar tax burden.

The next question is whether or not our current tax laws meet the standards established by Hayek. A look at the Internal Revenue Code strongly suggests they do not. The code and its regulations are more than 17,000 pages long, making it difficult for taxpayers to know the law in its entirety. Much of the code’s language is incoherent, not only to the average taxpayer, but also

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600 North Jackson Street

Mt. Pleasant, Iowa 52641-1328

Phone: 319-385-3462 Fax: 319-385-3799

E-Mail: public.interest.institute@limitedgovernment.org Web Site: www.limitedgovernment.org

to tax experts (who often come up with different answers to the same tax question), as well as IRS representatives (who provide the wrong answers to callers nearly half of the time). Tax laws are certainly not predictable, as they are often modified and amended by those in government.

How can taxpayers keep the coercive power of government in check? We need a fiscal constitution — a set of procedural safeguards to protect taxpayers from an unlimited government. Some state constitutions have provisions to protect taxpayers, such as Michigan's Headlee Amendment, which limits the growth of state government. On the federal level, Congress enacted the Taxpayers' Bill of Rights, a law that gives taxpayers a bit of leverage to deal with the IRS, but is limited as a tool to protect the rights of taxpayers.

The U.S. Constitution offers little to protect the economic rights of citizens, and the author examines the difficulty of adding this protection. In most cases, Constitutional Amendments or statutory changes originate with elected officials, who have little incentive to place limits on their own power to tax and spend.

A well-written fiscal constitution that follows Hayek's philosophy can be effective in restraining the growth of government. But, Wolfram concludes, "there is really only one way to protect taxpayers' rights against a Leviathan government, and that is for the general belief of society about the proper role of government to change." It is up to those who believe in the fundamental rights of individuals and understand the market process to do this.

This Institute Brief is one in a series on the chapters of a recently-published book, POLITICS, TAXATION, AND THE RULE OF LAW, edited by Dr. Don Racheter, President of Public Interest Institute, and Dr. Richard Wagner, Economics Professor at George Mason University and Chairman of the Institute's Academic Advisory Board. POLITICS, TAXATION, AND THE RULE OF LAW looks at the balance between providing government with the power to operate while preserving and protecting our rights of person and property.

The author of this chapter of POLITICS, TAXATION, AND THE RULE OF LAW is Gary Wolfram, Professor of Economics at Hillsdale College, Hillsdale, Michigan.

This summary of Dr. Wolfram's chapter was written by Amy K. Frantz, a Research Analyst with Public Interest Institute.

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