THE TAXATION OF CAPITAL GAINS

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THE TAX ON ADMISSIONS

An act imposing a state tax on tickets of admission to places of amusement, passed by the general assembly of 1921, is based on the federal act imposing a similar tax, not differing from it in any essential except that the state tax rate is one-half the federal rate.

These taxes are payable directly to the tax commissioner within two days after the federal taxes have been paid. All moneys received are transferred daily by the tax commissioner to the state treasurer. One-half of the amount collected is paid by the treasurer, in quarterly installments, to the treasurers of the several counties of the state, the payments being apportioned to population (1920 federal census) in the ratio which the population of each county bears to the total population of the state. The other half of the moneys collected is retained by the state.

This act is administered at small expense to the state, as two part-time employees and two full-time employees transact the entire business on the part of the state. Additional assistance is rendered as occasion requires by the several county commissioners, who are statutory agents of the tax commissioner for the enforcement of the provisions of the act.

This act became effective September 1st, 1921, and there are now 429 so-called "regular" taxpayers of record, most of whom remit each month, together with a large but of course variable number of casual or occasional taxpayers.

During the twelve months ended Aug. 31, 1922, the actual receipts from this source amounted to $450,484.09; additional payments received between September 1st and October 20th, upon operations conducted during the above mentioned twelve-month period amounted to $38,897.90, making a total of $489,381.99 for the first year of actual operation. Of this amount $52,070.29 from operations in October, 1921 was the largest amount received for any one month, $28,257.09 for July, 1922 was the lowest, and the monthly average for the year was $40,781.84.

The counties of the state were severally benefitted by receipts from the admission tax revenue in the following amounts received from the state treasury in four quarterly payments, being disbursements for the year ended September 30, 1922:

County	Amount
Hartford	$58,672.61
New Haven	72,499.00
New London	18,265.66
Fairfield	56,037.50
Windham	9,221.77
Litchfield	13,315.83
Middlesex	8,302.59
Tolland	4,752.17
	$241,067.13

It will at once be seen that these payments to the counties, available for county expenses, are most equitable and desirable.

As in the case of the unincorporated business tax act, this law again demonstrates the feasibility of securing additional revenue from other sources rather than imposing further taxation on real estate.

THE TAXATION OF CAPITAL GAINS

GEORGE O. MAY

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The treatment of capital gains under a steeply graduated income tax law constitutes one of the most difficult problems in fiscal legislation as is sufficiently evidenced by the changes contained in successive revenue acts. Impartial students of the subject will, it is believed, agree that the present state of the law is not satisfactory, and among the remedies which are receiving consideration is the abandonment of the taxation of capital gains and of the allowance of capital losses as a deduction from taxable income. In Great Britain, where capital gains have not heretofore been taxed or capital losses allowed as deductions, the question is being debated whether some change in the law is not necessary on account of the avoidance of taxation of what is essentially income by clothing it in the garb of capital. The time, therefore, seems opportune for a discussion of the problem.

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I. The Nature of Capital Gains

By capital gain is meant the profit upon the realization of assets otherwise than in the ordinary course of business; this profit being the excess of the proceeds of realization over the cost of the property realized.

In considering the proper treatment of capital gains under an income tax law it is desirable to keep in mind three different causes which may make a capital gain possible. These are:

(1) Change in absolute value due to natural growth or similar causes.
(2) Change in relative value of property in comparison with other property, due to external causes.
(3) Change in the money value of property due to depreciation or appreciation of currency.

In most cases, of course, a capital gain is due to a combination of these influences, some perhaps operating in a favorable, others in an unfavorable direction. All three, for instance, operating favorably might be found in the sale in the spring of 1919 of a privately owned barrel of whiskey bought as new whiskey in 1913. There would be first the increase in absolute value due to aging, second the increase in relative value due to the legislation enacted in January, 1919, and third the increase in money value, common to nearly all property, resulting from the expansion of currency and credit during the war.

Looking at the problem from the standpoint of principle, the gain due to the first cause is clearly only a special form of investment income, and therefore naturally comes within the purview of an income tax. Gains due to the second cause are real gains, and therefore fairly taxable, even if not ordinary income. Indeed if discrimination in favor of earned income as against investment income is well founded, it may well be argued that these gains from unearned increment should be regarded as less entitled to consideration than ordinary recurring investment income.

Gains from the third cause are more apparent than real. There would seem to be no true income or gain from selling property at double its cost, if everything which can be bought with the proceeds is also selling at double its former price. This has been a common situation in recent years and has been complicated by the factor of involuntary sale or realization. In recent tax laws attempts have been made to meet it, first by replacement fund provisions under which no taxable profit is deemed to be derived from an involuntary sale if the proceeds are put aside to be employed in replacing the property, and secondly by the provisions in the 1921 law, permitting exchanges of property without any liability to taxes as a result thereof.

II. Relation of Capital Losses to Taxation of Capital Gains

As a practical proposition it would be impossible to analyze every capital gain into its component elements and apply different rules to different elements. In particular it would be a hopeless task to convince the average taxpayer who had completed a transaction showing a loss, that he should pay a tax on the transaction because the loss was found upon analysis to be made up of an increase of value due to the first or second of the three causes above mentioned and therefore taxable, offset by a larger loss arising from the third cause and therefore outside the scope of the tax law.

The alternatives, therefore, are to tax all gains or to exclude all gains, except such as can be covered by simple rules. In considering the question whether capital gains should be taxed, the successive points which arise are:

(1) Is it in principle desirable to tax capital gains?
(2) If so, should capital losses be allowed as a deduction from taxable income?
(3) If both the first and second questions are answered in the affirmative, how serious are the dangers of evasion and how far is it practicable to guard against them?

It must be understood that the danger of avoidance is not disposed of by excluding capital gains and losses from the scope of the income tax, as is evidenced by the movement in England already referred to. A majority of economists would probably take the view that capital gains are not a proper subject for taxation under the guise of an income tax. Apart from this technical point, however, it would seem that in principle capital gains would form a most appropriate subject of taxation and

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the Supreme Court has held that they can be taxed as income. Some theoretical considerations have already been briefly recited. Among other reasons which would have weight with a statesman as well as with a politician is the fact that the great accumulations of wealth by individuals in the country have largely been the result of capital gains, and the salary- or wage-earning classes might quite naturally feel that they were being unjustly discriminated against if they were taxed on their salaries or wages, and the large capital gains of the very wealthy should escape taxation. Moreover, even if the taxation of capital gains be regarded as necessarily involving the allowance of capital losses, it would seem that treating both on the footing of income would ordinarily be expedient in a developing country in which naturally the capital gains would far exceed the capital losses. This proposition is, however, subject to the important qualification that it holds only so long as the form and degree of taxation are not such as to discourage the realization of gains and encourage the taking of losses, and thus to cause a serious disturbance of the normal balance between gains and losses.

Turning to the second point, while it may seem that in justice the rules regarding gains and losses in a tax law should be as nearly as possible similar, it may be recalled that this principle has not usually been applied in our income tax laws. Even in the case of ordinary business until the enactment of the present law a taxpayer who made a profit on trading in one year and an exactly similar loss in another paid tax on the profit and obtained no relief in respect of the loss. As regards losses not incurred in the taxpayer's trade or business the Act of 1913 allowed no deduction and the Act of 1916 allowed a deduction only to the amount of the gains of a similar character included in the same return. The tax rates under these acts were, however, small as we now reckon tax rates and the problem becomes difficult only when taxes are large. In 1917 when the maximum rate of tax was increased from 15% to 67%, the limitation on the deduction of losses contained in the Act of 1916 was continued, but in 1918 when the maximum tax was still further increased to 77% all limitations on deductions of capital losses were removed.

Even under this law if a taxpayer pursued the even tenor of his way undisturbed, taking capital gains or capital losses as his judgment of present and prospective values dictated, and entirely uninfluenced by tax considerations, he was not in the position that tax relief resulting from a loss was exactly equivalent to the tax burden resulting from an equal gain. Such a taxpayer, if he incurred losses, was thereby relieved from surtax at the rates he would have paid on his regular income; if, on the other hand, he made a profit, he paid surtaxes at the higher rates applying to income in excess of his regular income.

Thus to take the case of a man who had a regular income in each of the years 1919 and 1920 of $50,000 and sold one investment at a capital loss of $20,000 on December 31, 1919, and another at a capital gain of $20,000 on January 1, 1920; in 1919 he paid on an income of $30,000 a total tax of $3,890, in 1920 on an income of $70,000 a total tax of $16,490, together $20,380. If, however, both transactions had fallen in the same year he would have paid on an income of $50,000 in each year a tax of $9,190; a total for the two years of $18,380, and his capital gain, therefore, cost him in taxation $2,000 more than he saved on his capital loss, though the tax rates were the same in both years.

However, this discrimination against the taxpayer was of relatively minor consequence compared with the wholesale loss to the Government resulting from the fact that taxpayers liable to heavy rates of surtax very generally refrained from taking profits, but not from taking losses. It is impossible now to estimate the loss of taxes which have resulted from this disturbance of the normal policy of investors, but it must have been enormous. At the same time transfers which were desirable from the broad standpoint of public welfare were retarded or prevented. Men of advanced years, who were anxious to turn over their business affairs to younger and more vigorous men, were deterred from doing so by the tax which would have fallen upon them in the event of a sale, and in innumerable ways the ordinary course of business was affected by the artificial restraint on sales at a profit and the encouragement of sales at a loss.

To meet some phases of the problem, extensive new provisions were introduced in

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the Act of 1921, mainly in two forms, (1st) the limitation of the tax on capital gains in the case of investments carried more than two years at 12½%, and (2nd) provisions under which capital assets could be exchanged rather than sold without any tax being incurred. Under this law the rule that what is sauce for the goose is sauce for the gander invoked by taxpayers in support of the removal of the limitation on deductible losses in 1918 was waived in favor of the taxpayer. Logically the converse of the first provision just referred to would have been that a taxpayer sustaining a capital loss should pay the ordinary tax on his regular income and deduct therefrom 12½% of the amount of his capital loss. The Act, however, permits him to save the maximum surtax he would otherwise have paid. Thus, to use the same illustration as before, under the existing law a taxpayer with a regular income of $50,000, a capital gain of $20,000 in one year, and a capital loss of $20,000 in the next, pays over the two years $2,800 less than if both transactions had occurred in the same year.

In the case of the very wealthy, therefore, the present law makes it distinctly advantageous to take capital gains one year and pay a maximum tax of 12% thereon and take capital losses in another year, saving the maximum surtax to which the taxpayer would otherwise have been liable.

The position in regard to the exchanges is even more unfavorable to the Government. A taxpayer holding stock of the A.B. Company desires to dispose of it and reinvest in the stock of the C.D. Company. If the present market value of the stock of the A.B. Company is less than its cost to him, he sells this stock and buys the stock of the C.D. Company and is entitled to a deduction from his taxable income of the loss on sale. If, however, the market value of the stock of the A.B. Company is above cost he arranges an exchange of this stock for stock of the C.D. Company with a cash adjustment, and under the law he derives no taxable gain and therefore pays no additional tax.

From this brief summary it will be seen that in less than ten years the relation between the provisions regarding capital gains and those regarding capital losses has been changed from one of marked disparity in favor of the revenue to an even greater disparity in favor of the taxpayer. Probably every change has operated to the detriment of the revenue except to the extent that legislation has been retroactive and heavy taxes have been levied on transactions which would never have been consummated if a change in the law had been anticipated. Retroactive legislation, however, is not a desirable practice, and while it was doubtless justified in a time of world warfare, it should be banned for the future like many other practices developed during the war.

The above history of legislation since income taxes became possible on March 1, 1913, suggests that though the disparity in favor of the taxpayers may be lessened, it would not be practicable even if desirable to restore the old disparity in favor of the Government. It will be assumed, therefore, that if capital gains are to be taxed, capital losses must be allowed as deductions on at least an equal basis. Though specific provisions may facilitate tax avoidance or make it more difficult, the Treasury in dealing with all such problems suffers from the fundamental disadvantage that it is the taxpayer who not only decides the time and the form of transactions giving rise to capital gains or losses, but exercises the option whether they shall take place or not. To use a military analogy, the initiative, whose value in warfare is universally recognized, is always with the taxpayer. The Treasury has its fixed defences; the taxpayer moves only after careful study of these defences, and it is not surprising that the Treasury, with a defence impregnable against a frontal attack, often finds itself helpless against an enveloping movement which attacks it in the flank or rear. This disadvantage is increased by the fact that the distinction between ordinary income and capital gain is often a fine one, and a slight change in the form of the transaction may throw it into one class or the other. If, therefore, the Government decided to tax capital gains and allow capital losses as deductions, the taxpayer can refrain from taking gains but may take losses. If, on the other hand, the Government should exclude capital gains and capital losses from the scope of the income tax altogether, there is danger of transactions which essentially give rise to income being cast into such a form that the gain would technically be held to be a

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capital gain. How fine the distinctions are, and incidentally how unexpected may be the results to the Government and to the taxpayer of any action outside the ordinary course of business in a time when tax laws are rapidly changing both in form and in degree of severity, is very well illustrated in the case of the Phellis or du Pont case. This case and the Rockefeller Prairie Oil and Gas case decided by the Supreme Court at the same time, constitute two of the most complete, and in amounts involved the most considerable, of the Pyrrhic victories of the Treasury in tax litigation. The point at issue was not, of course, whether the transaction involved resulted in a capital profit or in a profit in the nature of ordinary income, but what might seem a much simpler question, whether it resulted in any profit at all.

III. The Phellis Case

The amounts involved in the Phellis case are so large and its features so striking as to make it worthy of detailed consideration.

The facts are briefly that the E. I. du Pont de Nemours Powder Company of New Jersey in 1915 transferred all its assets to a Delaware company in consideration of debentures and stock of that company, and retaining debentures of the Delaware company equal to the par of its common stock (approximately $30,000,000) distributed to its common stockholders two shares of Delaware company stock for each share of New Jersey company (or an aggregate of $60,000,000). The market value of the Delaware company's stock at the date of distribution was $347.50 per share. The Supreme Court has now found that this distribution was a dividend taxable to the stockholders of the New Jersey company, and by this decision has added to the taxable income of 1915 an amount of approximately $210,000,000, or nearly 5% of the total taxable income disclosed by all the individual tax returns of that year.

The five judges of the Court of Claims agreed in the view that in substance there was no income to the stockholders of the New Jersey company because the stock of the Delaware company represented the same property and business as the stock of the New Jersey company had previously represented. This view was supported, however, by only a minority of the Supreme Court, the majority finding that both in substance and form the stock of the Delaware company constituted real income to the stockholders of the New Jersey company.

In passing, it may be remarked that while each of the courts looked beyond the form and discussed the substance of the transaction—one finding that in substance there was no dividend, and the other that the whole of the stock of the new company at its market value constituted a dividend—in neither court was a third alternative discussed which seems most accurately to reflect the substance of the transaction. This alternative is that the stock of the new company represented substantially what the old stock had previously represented, and that the old stock, which after the transaction represented only an equal amount of debentures of the new company, was the real dividend. In substance the position of the stockholder after the transaction was almost identically the position in which he would have been placed had the New Jersey company created $30,000,000 of debentures and issued them to the common stockholders by way of dividend, or even if it had sold $30,000,000 of debentures at par and paid the cash to its stockholders. After the transaction the stock of the old company represented to the stockholder of the old or New Jersey company, something severed from the du Pont property and business which he could realize without reducing in any degree his proportionate interest in the general du Pont assets.

The controversy extended over six years, during which time anyone who was a stockholder at the time of the reorganization and who subsequently sold a part of the whole of his stock in the Delaware company was unable to determine whether under the income tax law he had made a profit or loss by doing so. If, for instance, such a stockholder sold ten shares of the Delaware company's stock for $2,000, the transaction would on the Government's theory result in a deductible loss of $1,475. If, however, the Government's contentions were overthrown, the result would be a taxable profit of a rather greater sum. The Government having won, it is interesting to consider what this victory has gained for it and what has been, or will be, the cost.

The keynote of the decision by which the Supreme Court held that stock divi-

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dends were not taxable was perhaps the statement that a stock dividend provided nothing out of which the stockholder could pay a tax without parting with some portion of his interest in the corporation. Assuming that the taxpayers who were called upon in 1921 to pay surtaxes on the profits which they are deemed to have made in the transaction of 1915, should have had recourse to the sale of their stock to provide funds with which to pay their tax, what will their position be?

The market value of the stock of the Delaware company was at the time of the decision roughly par. Any holder who received his stock as a dividend in 1915 pays tax in that year on the basis of a value of $347.50 per share, and if he sold in 1921 he is entitled to claim a loss on sale in 1921 of $247.50 per share. In 1915 the normal tax was 1% and surtaxes beginning at incomes of $20,000 ranged from 1% to 6%; in 1921 the normal tax was 8% and surtaxes beginning at incomes of $5,000 ranged from 1% to 65%. It will be apparent at once, therefore, how great the advantages of the decision to a taxpayer may be. Taking by way of illustration the case of a married man without dependents whose income apart from the dividend in 1915 or sale of stock in 1921 was $7,500 in each year, and assuming that he held 10 shares of the New Jersey company's stock and received 20 shares of the Delaware company's stock as dividend in 1915, and that he sold this stock in 1921 at $100 a share, it will be found that the dividend does not bring him into the surtax class for 1915, so that he has no additional tax to pay for that year, but the loss of sale in 1921 reduces his taxes for that year from $320 to $2.

Multiplying the figures twenty-fold and taking a man whose income was $150,000 in each year and whose original holdings of the New Jersey company's stock was 200 shares, it will be found that the addition of the dividend to his income for 1915 increases his taxes for that year by $5,950, and the loss on sale in 1921 decreases his taxes for that year by $51,650.

The full effects of the decision are not reflected even in these figures, as had the opposite decision been reached there would have been a taxable profit instead of a loss on any sale of stock in the Delaware company. Presumably the decision will also involve considerable saving of tax to the Delaware company.

No doubt some stockholders had sold a part or all of their stock prior to 1921 and in other cases the stock is held by persons who would not, and perhaps could not without difficulty, sell any great proportion of their holdings. The cost of the victory to the Government will therefore probably not come near its potential limits.

It is, however, reasonably certain that the cost to the Government in the form of taxes lost will enormously exceed the additional taxes recovered as a result of the decision, and one is tempted to ask questions like those of the children in Southey's poem "After Blenheim", and one finds no answer except Kaspar's:

> "But what they fought each other for
> I could not well make out.
> But everybody said," quoth he,
> "That 'twas a famous victory."

A similar analysis of the Rockefeller and Harkness cases would lead to a similar conclusion.

The claim of the Government was at best largely technical since it could not be said that the du Pont stockholders realized true income from the transaction in an amount approaching the two hundred millions which the court held must in law be deemed to be derived therefrom. The case turned on the special facts of a very unusual transaction and established no new principle, and the net result in the particular case of the Government's contentions being upheld was bound to be a loss of revenue. It is surprising, therefore, that the Government did not accept the verdict of the Court of Claims.

The position after this decision and the stock dividend decision (*Macomber* v. *Eisner*) would have been most unsatisfactory if Congress had not in the 1921 law provided in substance that no income should be deemed to be derived from corporate reorganizations.

The interest of the case in relation to the subject of this discussion lies in the evidence it affords of the room for wide difference of opinion concerning the income-producing effect of a transaction, even if the question is considered with regard to its substance and not merely to its form.

The room for difference of opinion on the question whether some of the complicated transactions of modern corporate

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finance produce income in the narrower sense, capital gains, or no gain or income at all, is obviously even greater.

IV. Conclusions

A study of the subject over a period of many years has led the writer to the conclusion that while either course is fraught with danger and tax avoidance on a large scale is bound to continue as long as high rates of surtaxes are maintained, on the whole the losses of revenue involved in the taxation of capital gains and the allowance of capital losses as deductions from taxable income are greater than those involved in the opposite course; further, that the margin is so great as to outweigh the consideration that in principle it is preferable to tax capital gains. Neither the war period, with its extravagant gains and unmerited losses, or the period of readjustment immediately after the war was an opportune time for a change of policy in this regard. As, however, we get back to more normal conditions, such a change seems worthy of the most serious consideratoins, more especially as the existing law in remedying defects of the old law has created new opportunities for tax avoidance from which the Government is bound to suffer very heavily.

If capital gains and losses are in general to be excluded from the scope of the income tax, safeguards will be necessary to prevent a wholesale escape from taxation of income by conversion into capital form. It is believed, however, that three provisions would be sufficient to prevent the great bulk of such evasion, namely:

(1) That where a capital gain or a capital loss arises in respect of an asset, which from its nature is subject to a natural increment or decrement in value, any gain shall be deemed to be income to the extent of a reasonable return on the investment for the period during which it has been held. Conversely the natural decrement should be allowed as a deduction from taxable income.

(2) That where property is disposed of within, say, two years of its acquisition, the transaction shall be deemed to be a trading transaction and not a capital investment.

(3) A provision under which the tax would be levied on the sale of stock corporations, particularly private corporations, where it might appear that there was a profit which was attributable to the accumulation of undivided profits by corporation and that the sale was made to avoid the imposition of the tax which would be assessed on such profits if distributed as dividends.

Of the three provisions it is believed that only the third would offer serious difficulty in its formulation and it should readily be possible to surmount these difficulties with the assistance of a group of persons familiar with business practice and with tax procedure.

Doubtless the adoption of this suggestion would involve the definite abandonment of a large amount of revenue which the Government ought some day to receive, but it is not believed that the sacrifice of revenue which the Government would otherwise be likely to receive would approach in amount the increase in revenue that would result from the elimination of deductions for losses.

Tax avoidance on a substantial scale would doubtless continue even if the suggestion were adopted, but this is bound to be true under any law so long as the extreme surtaxes now in force are continued. Most students of the subject are in agreement with the views expressed by the Secretary of the Treasury in his letter to the chairman of the House Committee on Ways and Means of April, 1921, that the immediate loss of revenue that would result from the repeal of the higher surtax brackets would be relatively small and the ultimate effect should be an increase in the revenue. Congress apparently clung to the outworn idea that such a repeal would result in a loss to the Treasury for the sole benefit of the rich. It will, however, ultimately be forced to recognize the shortsightedness of its policy, especially having regard to the existence of the huge volume of tax-exempt securities.

In justice to the present Congress one must recognize that not only is the problem an extremely difficult one, but it is made more difficult by the sacrifice of sound principles to political expediency in the original adjustment of income taxation to war necessities. Given a business world organized largely in the form of private companies which are practically incorporated partnerships, a world in which business transactions may readily be cast into

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different forms so as to produce ordinary income or capital gains as may be the more advantageous and given also a huge volume of tax-free securities; under such conditions the combination of a low normal tax on income of individuals and corporations with very high surtaxes is neither equitable nor effective. This is equally true whether capital gains and losses are treated as entering into the determination of income or not. The form of tax avoidance changes to meet either rule. The only real solution is to reduce the disparity between normal taxes and surtaxes.

Had the Congress recognized these facts in war time and raised the normal tax and the lower range of surtaxes to higher levels as urged by the Treasury, it would have been possible later to make reductions all along the line. It is not surprising, however, that the present Congress should look askance at a proposal to increase the normal tax and the lower surtaxes and reduce the higher surtaxes. Though in reality such a scheme would be sound finance and benefit the entire community, it seems on the surface too much like a scheme to relieve the rich at the expense of the relatively poor to be expedient from the standpoint of party politics. It is certain, however, that the high surtaxes will prove increasingly ineffective and injurious the longer the present system is continued.

In the meantime, it is believed that the revenues can be increased, tax avoidance greatly diminished, and greater equity secured by the abandonment of the rule of taxing of capital gains and, conversely, of allowing capital losses as a deduction from taxable income.

TAXATION

FRANKLIN CARTER, JR.
Equitable Trust Company of New York

There has been no more prophetic utterance than that expressed in the opinion of Chief Justice John Marshall in the case of *McCulloch* v. *Maryland* (4 Wheaton 316, U. S. Supreme Court, February 1819 term) where the law of Maryland imposing a tax on the operations of a national agency was held to be unconstitutional: "That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create."

The present tax laws and their administration are one of the chief discontents of the American people, and there are two fundamental reasons, broadly speaking, why this is so. The primary cause is the intricacy and complexity of the laws themselves which are often not understood by the legislators who enact them and therefore place the bewildered public in an uncertain state of mind as to how to compute their taxes and how much reserve to pay them at a future date after the year's transactions are done.

The second fundamental cause of discontent is dependent upon the first, and lies in the administration of the laws. It is absolutely impossible to get enough satisfactorily trained administrators, investigators, accountants and examiners to properly adjust, examine and settle finally, with justice to the public, all claims and assessments because of the constantly changing rulings, regulations, opinions and court decisions, all of which are continually reversing, modifying or reclassifying previous interpretations of the law and methods of its application.

Where local or state taxes on real or personal property are assessed, there is not the difficulty which arises in connection with income taxes and franchise taxes which are dependent on the amount of income or the amount of capital employed in business as the bases of their computation.

The chief difficulties for the taxpayer are nearly as often a problem for the administrative authorities and governmental collecting agencies. Under present conditions and the extreme necessity for revenue the taxpayer in doubtful cases is sometimes not given the benefit of a reasonable doubt.

For concrete illustrations a few of the more unreasonable applications of the federal income tax law which is so closely followed in its wording and application by

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