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A Federal Land Tax without a Constitutional Amendment

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One way of implementing a federal land tax is to pass a constitutional amendment that explicitly provides for such a tax. But it should not be necessary to pass a constitutional amendment to implement a federal land tax.

The idea that a constitutional amendment is necessary to implement a land tax comes from that fact that the original constitution specifies that "no capitation or other direct tax shall be levied unless in proportion to the Census of Enumeration herein directed to be taken." The federal income tax was sanctioned by the sixteenth amendment, which specifies that "Congress shall have the power to levy and collect taxes on incomes, from whatever sources derived, without apportionment among the several states, and without regard to a census or enumeration."

A federal land tax that was apportioned among the states according to population, as specified by the original constitution, would definitely be constitutional. Thus if \$50 billion in revenue from a federal land tax were desired, and if the population of the 50 states is 250 million, then the tax to be collected in each state would be the population of the state multiplied by \$200 (that is \$50 billion/250 million). However, the tax would not be levied as \$200 on each person. Rather, it would be levied on the land value of the state, at a rate that would collect the specified amount. Thus if a state had a population of 4 million and total assessed land value of \$80 billion, then the amount to be collected from the state would be \$800 million (\$200 times 4 million), which would be achieved by a tax of 1% of assessed value (\$80 billion/\$800 million).

Congress has levied such taxes in the past, though I believe that they were levied on all property, rather than on land alone, and I believe that the

last time such a tax was used was during the Civil War. Perhaps someone should research this.

Some people would object to a tax that was apportioned among the states according to population, on the ground that it is inappropriate for poor states to have to pay as much per capita, of any tax, as rich states. If this were the only objection, it would be possible to answer it by combining a federal land tax with an expenditure program that used some of the revenue collected to offset the higher tax rates in states with less land value per capita. For example, suppose that land value per capita varies among states from \$10,000 to \$30,000, and suppose that a tax of 1% of value everywhere is desired. Then it would be possible to levy a tax that would be 1% of value in the state with a land value of \$30,000 per capita (which would be a tax of 3% of value in a state with \$10,000 of land value per capita) and spend some of the money generated to pay taxpayers in all states whatever they had paid in taxes in excess of 1% of land value. The net result would be a tax that was everywhere 1% of land value. If such an approach were taken, it would be necessary to set up a "Federal Board of Equalization" that estimated the average assessment ratio in each state, so that this could be taken into account, and no state could reduce its net federal tax payments by systematically underassessing its land.

Another approach to a federal tax on land would be to use the provision that permits an income tax. A number of versions of such a tax would be possible. The simplest would be for Congress to levy a tax on the income from land, and specify that what it meant by the income from land was, say, 6% of the value of the land. Thus a tax of 25% of the income from land would be a tax of 0.75 % of the value of land.

If there were no uncertainty about future returns from land, such a tax would have a very good theoretical rationale. The economics of investments says that, in the absence of uncertainty, all investments will yield the same return. If a particular site yielded only 4% in current returns when others were yielding 6% in current returns, this would mean, according to the theory, that the site that yielded 4% was also generating an expected 2% capital gain, which is another component of the return to holding a site. Thus the total return was the standard 6%. The theory says that the prices of assets will adjust so that each asset always yields the same total rate of return as all other assets. From this perspective, a tax on the value of land is equivalent to a tax on the income from land, which is permitted by the sixteenth amendment.

When uncertainty is taken into account, there is no longer a perfect correspondence between a tax on the income from owning land and a tax on land value. When uncertainty is present, one component of the income from owning land is the unexpected rise or fall in its value. This would not be captured by a tax proportional to the value of land. Thus, to be described as an income tax, a tax proportional to the value of land would have to be described as a tax on the current income and expected capital gain.

Yet another, somewhat more remote possibility would be to devise a tax on land that could be included under the right of the federal government to levy excise taxes. The tax could be levied on the transfer of land, with a rate proportional to the number of years since the land had last been transferred. One would then introduce a withholding provision, that money would be collected each year, against the total that would be owed when the land was transferred.

Mason Gaffney has pointed out that it would be possible to convert the current corporate profits tax into a tax that was very close to a tax on corporately owned land, by providing that the full cost of investments could be deducted from taxable income at the time that the investments were made. Then, under a 40% corporate profits tax, the federal government would put up 40% of the cost of any new capital (in the form of taxes that would not have to be paid) and would receive 40% of the return from the capital (in corporate profits taxes). The corporate profits tax would then fall predominantly on land, though it would also fall on entrepreneurship and on capital that existed before the immediate full deductibility of capital purchases was introduced.