

TAX SIMPLIFICATION IN THIS FEDERAL SYSTEM

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Coordination and cooperation rather than subordination and coercion is the answer to intergovernmental problems in the United States.

I begin this essay with the opening words of the Groves-Gulick-Newcomer report on *Federal, State, and Local Government Fiscal Relations*¹ written nearly thirty years ago by the much-beloved, recently departed Harold Groves and wonder whether he would begin similarly in 1970. Perhaps not!

A highly developed, interdependent, private enterprise society lays great store by tax simplicity to maximize efficiency and minimize deterrents to the free flow of trade, commerce, and persons across state and local borders. A federal system lays great store by decentralized decision making at subnational levels and finds tax simplicity to be an elusive goal because decentralization bestows the right to be different, and differences necessarily mean complexity. These generalizations about the United States go a long way to explain why tax simplification remains a goal passionately desired but not readily realized.²

A federal system that embraces some eighty thousand taxing jurisdictions and a people that gauge their faithfulness to that federalism by the latitude afforded its fifty states and the latitude each state affords its numerous subdivisions to shape their own tax practices is condemned to tax diversity.

It is expected of federal systems that their closely affiliated governments will exchange reciprocal courtesies, work in concert, and help one another at every turn. But those who share this expectation are doomed to disappointment. Legislators entrusted with the business of a particular state or local government are not free to suit their actions to the broad national interest, particularly not if it even appears to disadvantage the interests of their own constituency. Their primary goal is the approval of their respective voters who typically would not welcome being inconvenienced, through impairment of their pocketbook interests, for the sake of intergovernmental comity. Many, no doubt, would willingly pay the price of intergovernmental uniformity and simplicity if offered the choice in full view

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¹ S. Doc. No. 69, 78th Cong., 1st Sess. 1 (1943).

² Tax simplicity would be an elusive goal even under a centralized, unitary governmental system because ours is a complex economic society that transacts business in innumerable ways, and tax laws that take adequate account of the many ways in which people conduct their activities and obtain their incomes are necessarily complex. Those unimpressed with the inexorability of the trend toward complexity need only to compare the size of the current Internal Revenue Code with one of its antecedents, say the 1929 version. However, this species of tax complexity and how it might be reduced is examined by others. See, e.g., Surrey, *Complexity and the Internal Revenue Code: The Problem of the Management of Tax Detail*, in this symposium, p. 673. My concern is with the tax complexity associated with our pluralistic governmental organization.

of the facts, but as the economy and society become more developed and grow more involved, keeping large segments of the public informed on the humdrum business of government becomes less and less feasible.

I

REVENUE SEPARATION

Concepts of tax simplicity differ. Some would consider it a step forward, a stride towards simplicity, if they were required to pay but one income, one property, or one sales tax. Their desire for this kind of simplicity has contributed to the image of a utopia in which each level of government has its exclusive tax domain and governments are enjoined from trespassing in one another's preserves. The professionals call it "separation of revenue sources." This kind of tax utopia caters to man's love of symmetry and simplicity. Regrettably, man has contrived only a limited number of different kinds of taxes, not nearly enough good revenue producers to meet the needs of the different kinds of governments requiring support.

To be workable, a revenue separation plan would not only need to give each level of government a tax that would satisfy its revenue needs, but the weights of the different taxes levied by the several governments would have to bear an acceptable relationship to one another—a relationship acceptable in terms of the desired tax burden distribution. But needs change over time, as do the relative yields of different taxes. This makes any revenue separation plan obsolete before it can be presented, not to say implemented.

In a sense, the opportunity for tax simplification was forfeited by the Founding Fathers when they elected to make the federal government and the states co-sovereign in taxation, by bestowing on each the right to use virtually any tax. Practically the only tax off-limits for the federal government is that on property; for state governments, on foreign commerce. Each state is free to choose almost any tax it pleases, and most please to choose some of the same taxes, albeit in different shapes. Local governments' taxing powers are prescribed, of course, by the states. Some give their cities and counties wide taxing latitude; many keep them on tight reins.

While states enjoy great taxing freedom under the Constitution, they do not have such freedom in fact. They are curbed by the realities of economic and political life, including federal tax practice, tax competition with other states, tax enforcement considerations, and voters' attitudes. Taxes acceptable to the people in one state may be unacceptable in another.

Considering the latitude afforded by the Constitution and man's ingenuity, variety in state and local tax systems is not unexpected. It is surprising, indeed, that it is so narrowly restricted. At each level of government most of the revenue is obtained from one general type of tax. The federal government relies for over eighty per cent of its tax revenue on income taxes; the states, for about sixty per

cent on consumer taxes; local governments, for nearly ninety per cent on property taxes. Stated another way, over ninety per cent of all income taxes paid by the American people go to the federal government; nearly ninety per cent of all general sales taxes to the states; and nearly 100 per cent of all property taxes to local governments. The federal government also takes almost eighty per cent of the taxes assessed against inherited wealth.

As a result of this specialization, the tax duplication that prevails pertains to only a small part of collections from each tax. This was even more true a few years ago before persistent revenue pressures obliged state and local governments to reach out for taxes they had formerly disdained. The fact that overlapping is limited to only a small fraction of the yield of each tax makes the resulting complexity all the more objectionable. Although local governments account for only two or three per cent of income tax collections, the duplication inconveniences the many millions who chance to live in the few hundred municipalities that employ them. They believe that it would make sense to dispense with the local tax and compensate for it by a moderate addition to the state or federal tax.

Over the years much thought and attention has been given to bringing some semblance of order to the intergovernmental tax maze, much of it pointed toward separation of revenue sources, partly to improve the federal/state/local fiscal balance, partly in the cause of tax simplification: to ease the compliance burdens of taxpayers and enforcement tasks of tax administrators. This was to be accomplished by the federal government relinquishing tax sources to the states and the states relinquishing tax sources to local governments.

The classic success story is the relinquishing of the property tax by the states during and following the Depression, leaving it for the almost exclusive use of local governments. The resulting contribution to tax simplification, however, has been minimal. It may, in fact, have been negative, for it deprived the states of any direct motivation to help and guide local governments into constructive directions. The need to revive state interest in the property tax is becoming widely recognized, for without state leadership local governments are disposed to move in all directions with little regard for intergovernmental uniformity.³ Progress in this direction is one of the significant developments of the 1960s.

II

TAX CREDITS AND TAX SUPPLEMENTS

A. Tax Credits

The standardizers and perforce simplifiers *par excellence* are the tax credit and the tax supplement. The tax credit is a device used, say, by the federal government

³ ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, *THE ROLE OF THE STATES IN STRENGTHENING THE PROPERTY TAX* (1963).

to invite the state to pre-empt a specified portion of the federal tax levied on their citizens by imposing a corresponding state tax on them. Taxpayers are allowed to use their receipts for taxes paid to states as if they were legal tender in discharging a specified portion of their federal tax liability. One example is the federal credit for state unemployment insurance taxes. It is limited to ninety per cent of the federal tax liability. To qualify, a state tax must satisfy prescribed standards which in effect make the determination of state tax liability comparable to that of federal liability, thus resulting in comparability with the method used in the other states as well. All of the fifty states avail themselves of this credit.

The conditions governing qualification are less exacting for purposes of the credit against the federal estate tax for death taxes paid to states. These conditions afford enough latitude, however, to enable a number of states to express their death tax in a single sentence: imposing an amount of tax sufficient to absorb the full credit for taxes paid to states allowed against the federal estate tax. The only state that disdains this credit (by constitutional mandate) is Nevada.⁴

The tax credit has been proposed in connection with several other taxes, not so much to make for simplification as to make this or that tax politically more acceptable for state use. The fact that within the limits of the credit a state can impose a tax without adding correspondingly to its residents' total tax liability (since the state tax results in a reduction in the federal tax) generally weakens objections to its enactment. For this among several reasons, the Advisory Commission on Intergovernmental Relations and the Committee for Economic Development have both proposed a federal income tax credit for income taxes paid to states.⁵ Legislation to this effect introduced in the Congress has made no progress.

A credit may be used in like manner by states vis-à-vis local governments. Florida at one time allowed full credit against its cigarette tax for locally levied cigarette taxes.

B. Tax Supplements

The tax supplement has its widest application in local sales taxation. About two-thirds of the states with locally imposed sales taxes allow local governments to piggy-back their tax on the state tax by adding a local supplement to it. In these situations the local tax is imposed under the rules that govern the state tax and is collected with it. The proceeds are returned to the city or county where collected, often after the deduction of a nominal charge for collection costs.

Maryland has pioneered the application of the supplement technique to income taxation. It allows its counties and Baltimore City to supplement the state tax with

⁴ ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, COORDINATION OF STATE AND FEDERAL INHERITANCE, ESTATE AND GIFT TAXES (1961).

⁵ COMMITTEE FOR ECONOMIC DEVELOPMENT, A FISCAL PROGRAM FOR A BALANCED FEDERALISM (1967); ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, FEDERAL-STATE COORDINATION OF PERSONAL INCOME TAXES (1965).

a local income tax equal to not less than twenty per cent and not more than fifty per cent of state income tax liability. Michigan's Department of Revenue is authorized to contract for the collection of local income taxes, but to date the power has not been exercised.

The tax credit and tax supplement are effective simplification devices for they minimize both compliance burdens and collection problems, albeit at a cost to state or local policy freedom. Those opposed to the taxes in question make effective use of the argument that tax credits and supplements are instruments of coercion. State governments find it almost impossible to resist federal credits; local governments, the opportunity to add supplements to state taxes.

Nonetheless, spokesmen for the states have been known to prefer these devices to federal withdrawal from a particular tax area, leaving it free for exclusive state use. In 1924 when the Congress was about to repeal the World War I estate tax, it was persuaded to provide a tax credit instead. Some of the states were fearful that if the federal tax were repealed, interstate competition for wealthy taxpayers would result in competitive state tax emasculation. They preferred that the federal tax be retained with a credit for taxes paid to states to serve as a floor under state taxes below which tax reduction availed a state nothing. In the late 1950s when the Joint Federal-State Action Committee considered ways of pre-empting the tax on local telephone service for local governments, it decided against repeal of the federal tax. It recommended instead that the federal tax be retained with a credit for local taxes on phone service.⁸

III

UNIFORM TAX DEFINITIONS

It was noted earlier that the three levels of government practice significant tax specialization. This should not be confused, however, with tax uniformity. Individual jurisdictions at each level have managed to develop substantial, even bewildering, variations in all the major types of taxes, reflecting varying political attitudes, pressures, and idiosyncrasies. Although all state sales, income, and inheritance taxes, for example, have common characteristics, the differences in detail are sufficiently numerous to create a national market for a series of voluminous commercial publications devoted to keeping subscribers abreast of changing state and local tax provisions.

Taxpayers and tax administrators would find the going easier if governments at all three levels—federal, state, and local—and the various governments at the state and local levels followed, for example, similar if not identical income tax rules. Most taxpayers file state as well as federal tax returns. Increasing numbers

⁸ JOINT FEDERAL-STATE ACTION COMMITTEE, FINAL REPORT TO THE PRESIDENT OF THE UNITED STATES AND TO THE CHAIRMAN OF THE GOVERNORS CONFERENCE app. I-A (1960).

also file local returns, and a substantial number file more than one state or local return.

Since the federal government imposes a pervasive income tax, people understandably inquire why the states use different income tax rules, burdening taxpayers with duplicate tax computations. The determination of the amount of a person's income subject to tax can be a complex calculation, involving such questions as: What income is included and excluded? What deductions are allowed? How are capital gains, royalties, and pensions treated?

During the past fifty years an elaborate set of rules has been developed through federal legislation, regulation, and litigation for handling these variations. Compliance with these provisions can impose a substantial burden on taxpayers as well as on those who must supply information returns to tax collectors. When federal and state ground rules diverge, taxpayers, particularly those who operate and derive income in several states, are inconvenienced.

Some differences between federal and state provisions are unavoidable. The federal government, for example, taxes the interest on its own bonds but exempts state and local bond interest; states are obliged to reciprocate. Differences are likely also with respect to the taxation of capital gains. The federal government taxes only post-1913 appreciation realized on the sale of a capital asset, since 1913 marks the beginning of federal income taxation. Most states initiated modern income taxation at a later date. For individuals who derive income from more than one state, the amount reported on federal tax returns is necessarily larger than that taxable in any one of the states, and the rules of apportioning income among states can be vexing.

State adherence to federal rules clearly helps taxpayers, particularly those deriving income from sources other than wages and salaries. It helps tax administrators as well because the federal Internal Revenue Service makes its files freely available to state tax administrators, and to the extent that state and federal rules match, federal income tax findings can be readily taken over for state use. But federal rules are not always good rules. A variety of preferential provisions have crept into federal law, and the state that operates on the basis of federal rules necessarily takes over the bad with the good. Moreover, the decision to base their law on the federal may be difficult for state legislators. It implies some surrender of their independence, of their state's tax sovereignty. It means foregoing the privilege of shaping their state tax laws to implement state policy objectives which may be at variance with congressional objectives.

In some cases, automatic state conformity to federal law involves a constitutional issue that can be resolved only by constitutional amendment. Some courts have found the adoption of federal rules (including subsequent changes without specific legislative action) to be an unconstitutional delegation of state legislative authority to the Congress.

Practical considerations and compassion for taxpayers appear to be overcoming some of the reluctance to adhere to federal rules. State use of federal adjusted gross

income as a starting point for the computation of state taxable income has made striking progress. In fact, the few new state income tax laws of recent years follow federal law, and some states with old laws have scrapped them in whole or in part for the federal model. The case of Wisconsin is particularly notable because that state's law actually predated the federal by a couple of years. Apparently no state that has once conformed its income tax base to the federal has subsequently abandoned it.⁷

Some states have limited the extent of conformity with federal law to the determination of the amount of a taxpayer's income subject to tax and made their own rules to govern exemptions and tax rates. The case for carrying conformity to include these variables is less clear since differences in personal exemptions and in tax rates are easily accommodated on the tax form. Most taxpayers do not find the additional arithmetic involved to be particularly troublesome.

It is often suggested to states that they make income tax compliance really simple for taxpayers and employers by expressing their taxes as a percentage of the federal tax. This would resemble a tax supplement with respect to the calculation of the amount of the state tax but would differ from the supplement in that the state tax would be separately collected. Some states have experimented with such a system and found it wanting.

Federal tax rates are steeply graduated, particularly in the middle brackets; state graduation is largely limited to the lower brackets. If the state tax were a uniform percentage of the federal tax, the federal graduation would be carried over automatically into state taxation. Since the degree of income tax progression is a political decision governed more by social policy than revenue considerations, states may not wish to commit themselves to following the graduation in the federal law.

Although a state's attitude toward tax burden graduation remains the important consideration in deciding whether or not to tie state income tax liability to a percentage of the federal tax, recently another factor has come into play. In 1964 Congress initiated a policy of changing income tax rates in the interest of economic policy objectives. It reduced tax rates markedly, despite a prospective budget deficit, to stimulate the economy in the expectation that the resulting economic growth would compensate for revenue lost. Its expectation proved to be correct. States, however, unlike the federal government, cannot engage in deficit financing for operating costs and therefore are not free to take revenue losses for the sake of national economic policy—even for short periods. This development obliges states to keep their income tax liability free of a constant percentage relationship to federal tax liabilities in future years.⁸

⁷ For an exhaustive analysis of the extent of federal-state divergence in statutory income tax definitions and its implications for tax simplification, see ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, FEDERAL-STATE COORDINATION OF PERSONAL INCOME TAXES (1965), particularly ch. 7 and technical paper 2.

⁸ The Tax Reform Act of 1969, Pub. L. No. 91-172 (Dec. 30, 1969), provides another example of

IV

JOINT TAX COLLECTION

If the states choose to tax income, wealth, or business activity that is also taxed by the federal government and, going a step further, adopt rules developed for the federal tax system, why not entrust the collection of their taxes to the federal Internal Revenue Service? Joint collection of taxes would be a giant step toward simplification.

As long as thirty-five years ago responsible tax circles discussed the idea of a common tax return form to serve both federal and state needs, to obviate the need for preparing separate tax returns for each taxing jurisdiction, and possibly to lay the basis for joint collection. The effort never progressed beyond the idea stage.

Canada made more progress. When that national government restored to the provinces the income tax which had been taken from them during World War II, it undertook to collect the provincial income taxes for any province that desired it. Most avail themselves of the opportunity.

Here in the United States, however, the joint collection of federal-state income taxes faces formidable hurdles. The Internal Revenue Service's operations are geared to uniformity across the country. This uniformity grows progressively more mandatory as federal tax administration is automated. Federal returns from all over the country are now processed in specialized regional facilities. Such processing would be handicapped if it had to apply different tax rules to returns from different states. Present state tax provisions, as we have noted, frequently vary from the federal, and variations among the states extend to numerous, often inconsequential, details. Although considerable progress toward uniformity has followed from some states' adoption of federal provisions, substantially more progress in this direction is required before pooled administration on terms practicable for the Internal Revenue Service becomes a realistic prospect.

Federal collection of state income taxes is least attractive to states with well-established taxes, especially those with effective tax enforcement techniques and well-developed statutes reflecting local political preferences. Some states believe that the quality of their enforcement, particularly at the lower income levels where most taxpayers fall, compares favorably with the federal government's.

Federal collection of state taxes probably would be most attractive to a state enacting an income tax for the first time. Such a state would not be confronted with the vexing need to abandon its own provisions in favor of those in federal law, to assign its income tax personnel to other tasks, and to admit by implication that it prefers the federal government's enforcement to its own.

In view of the understaffing of most administrators' offices, none would have difficulty in making effective use of personnel made surplus by shifting income tax

the difficulties encountered under the per cent of federal tax paid approach which largely are avoided where state conformity is tied to adjusted gross income.

enforcement responsibility to the Internal Revenue Service. But rationality may not prevail. Political leadership takes pride in its administrative organization and is predisposed to protect it. State legislatures have a bias against allowing federal law to govern state income taxes. They value their prerogative to write the tax rules. Nonetheless, the case for federal collection of state income taxes improves as states pattern their laws after the Internal Revenue Code. The U.S. Treasury is publicly committed to undertake income tax collection for any state with which it can make a mutually satisfactory arrangement. Legislation authorizing it to do so is pending in the Congress although there are no indications that it is being favorably considered.

The reluctance to pool state and federal tax administration is conspicuous also in the case of excises. A number of excises used by the federal government are also levied by all or nearly all the states, and it would be logical to collect them together. The opportunities for economy, both in government and industry, from pooling the enforcement efforts of fifty-one separate tax administrations are obvious and even greater than this number would suggest. The important federal excises (liquor, gasoline, and tobacco) are collected at the manufacturing stage and therefore involve only a few firms; the states' taxes are collected at the wholesaling and jobber level and involve dealings with many thousand business firms.

At the time of the repeal of prohibition, a number of proposals looking to the combined administration of federal and state beverage taxes were considered. It was an ideal time to plan a coordinated enforcement effort. The states' administrative machinery had been disbanded during prohibition and no tax collection bureaucracy with vested interest in an existing arrangement existed. It would have been practicable then to provide for federal collection at the manufacturing level and sharing of revenues with the states. That system was rejected. Independent state and federal alcohol tax and control systems were developed on the rationalization that the taxation of liquor is closely tied to the regulation of liquor consumption, and taxation should accompany regulation. The dual system is now established, and both the states and the federal government appear committed to going their separate enforcement ways.

In gasoline taxation the barrier to joint federal-state tax administration is the variation in state tax rates. Although all states have used gasoline taxes since 1919, their rates have always varied. Joint federal-state tax enforcement would mean collection at the refinery level. Petroleum companies distribute their products from regional storage farms that serve areas that do not necessarily coincide with state boundaries. If these companies were required to collect state taxes at different rates, they would need to keep current records on the place of final sale of their products and reflect each state's tax rate in retail prices. Petroleum companies are understandably reluctant to undertake this record-keeping chore.

It has always been assumed that variations in motor fuel tax rates are inevitable because of differences in the states' need for highway funds. In recent years, how-

ever, the states have tended to move toward more uniform rates.⁹ If this trend continues, at least on a regional basis, joint collection of gasoline taxes at the refinery level would become more practicable.

The problems inherent in joint federal-state tax collections are illustrated also by the cigarette tax. This state tax, too, is now universal. It is levied by the federal government, the District of Columbia, and all fifty states. Governors and state legislators have been turning to it for additional revenue more frequently than to any other source.

The federal government collects its cigarette tax directly from a handful of manufacturers and employs a simple tax return system. This obviates the need to affix a stamp to each package of cigarettes as evidence that a tax has been paid. In consequence, federal tax enforcement costs are minimal, less than one-third of one per cent of collections.

The states' enforcement costs on the other hand reportedly approximate about five per cent. In all but three states the procedure involves affixing a stamp or other evidence to each package. The stamps have to be produced and stockpiled and the industry has to be compensated for the expense of opening each case and carton of cigarettes to attach appropriate proof to each package that the tax has been paid. This dramatic contrast between state and federal collection costs focuses periodic attention on the possibilities for joint collection of cigarette taxes to give the states the benefit of the low federal enforcement costs.

In the early days of state cigarette taxation, it was often proposed that the states abstain from using it, and that in return for exclusive federal taxation, the states be given a share of collections. After the tax spread to many states and wide variations developed in state tax rates, federal taxation with state revenue sharing became impracticable. Currently (early 1970) the tax rates range from two cents to eighteen cents. A sharing formula generous enough to compensate the states with relatively high tax rates would be costly in federal revenue and bestow windfalls on low tax states.

The states, of course, could not be mandated to vacate the cigarette tax field. Their withdrawal would need to be voluntary and therefore would have to be accomplished through terms acceptable to them. It is difficult to visualize circumstances when these conditions could be satisfied. In stipulating the terms under which they would be willing to give up their own tax, the states would be inclined to look not only to their present tax rates and collections but to such further tax rate increases as they might have in prospect for the future. Moreover, federal collection with state sharing or joint collection would be possible only if all states joined in it and there is little precedent for fifty states subscribing to a common tax rate policy.

⁹ See ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, INFORMATIONAL REPORT: STATE AND LOCAL FINANCES (1970 ed.). Data on state and local excise and other tax rates are a standard feature of this report, updated annually.

There remains the possibility of the states continuing to enforce their own cigarette taxes but shifting them to the manufacturing level. The Advisory Commission on Intergovernmental Relations has concluded that this procedure has now become practicable.¹⁰

Manufacturers can be expected, of course, to hesitate to assume responsibility for collecting state cigarette taxes, particularly if they would have to bear uncompensated compliance costs and the additional financial burden associated with the prepayment of state taxes. Wholesalers would also resist it if only because the compensation they now receive for affixing the tax stamps yields some of them a sizeable profit. State officials charged with policy-making responsibilities would need to be assured that the cooperation of the manufacturers and of the officials of the other states would be forthcoming before consenting to the liquidation of an ongoing enforcement organization, however costly.

Several years have elapsed since the Advisory Commission recommended to the states that they explore the collectability of their cigarette tax at the manufacturing level and asked the Internal Revenue Service to help them. The suggestion has not received an overwhelming amount of attention either because the potential savings in administrative costs, however substantial, are of little interest to state policy makers or because they interest them less than the convenience of continuing in familiar, albeit costlier paths.

While the pooling of state and federal tax administration is not promising, progress at the local level has been noteworthy, particularly in property taxation. In 1964, Allen D. Manvel, then Chief of the Governments Division of the Bureau of the Census, was able to report to the Research Section of the National Association of Tax Administrators that in twenty-two states a single county office collects all general property taxes due throughout the county. It credits or remits appropriate amounts to the various tax-levying governments, including the state government if it levies such a tax. All property taxes are being collected by a single agency in nine additional states, but these agencies are generally smaller than the county, typically a township or municipality. Here, too, however, the property owner pays all his property taxes to a single tax collector.

Progress can be reported also in pooling responsibility for property assessment. In twenty-four states the primary assessing jurisdiction is the county, and in another six the only exceptions to this rule are composite city-counties (for example, Miami and Dade County) generally classified as municipalities. A seventh state, Virginia, could be added to this group since its "independent cities" are essentially county-equivalent areas without overlapping county governments.¹¹

In Pennsylvania, where several types of local governments levy flat rate income taxes, in some places contractual arrangements reportedly provide for the collection

¹⁰ STATE-FEDERAL OVERLAPPING IN CIGARETTE TAXES (1964).

¹¹ BUREAU OF THE CENSUS, PRIMARY ASSESSING AREAS FOR LOCAL PROPERTY TAXATION 2 (1966).

of the taxes levied by all overlapping taxing jurisdictions by a single collection agency. This practice apparently came into being on local initiative in the absence of state leadership. Where it operates, it has materially reduced the compliance burdens of taxpayers and the withholding burdens of employers. Other examples could be added. A striking one is the arrangement among several northwestern states for apportioning truck registration fees on fleets of vehicles operating in several states on the basis of each state's share of the ton-miles traveled.

V

ADMINISTRATIVE COOPERATION

Those who view government at all levels as engaging in a single mission expect these governments to help one another in tax administration. Their officials concur in principle, if not in practice.

Public officials are committed to their respective missions. Their loyalty is to their own jobs. They strive for the approval of their superiors; those exposed to public view, for the approval of their constituents. But constituents tend to rate their political representatives in terms of narrow personal interests, and their interests may conflict with those of other communities. The bootlegging of tax-free cigarettes serves the interests of the states where they were produced and sold but cuts into tax collections of the state where they are consumed. One government's gain can often be had only at the cost of another government's loss.

Help extended to another tax administration generally absorbs manpower and since public agencies tend to be understaffed, they are reluctant to dissipate their limited manpower in helping others, unless they see an unequivocal *quid pro quo*. A town tax collector may be reluctant to spend a town dime helping the Internal Revenue Service collect a dollar. The federal stamp tax on transfers of real property, in effect for several decades until 1968, went unenforced in many places because some local recorders of deeds felt no compulsion to assist federal tax enforcement to the inconvenience of their local citizens.

In some cases, helping another unit of government may require legislative authority either because confidentiality of taxpayer information is involved or because the language of the agency's appropriation is construed to preclude the use of appropriated funds for helping another jurisdiction. State and local governments have been helping the federal government by withholding income taxes from their employees on the same basis as private employees. Federal agencies could not reciprocate by withholding state income taxes until Congress explicitly authorized it, because it had been ruled that the legislative language had not provided for using appropriated funds for this purpose. This is the reason federal agencies are still precluded from withholding city incomes taxes from federal employees, although cities must withhold federal taxes due from their employees.

Despite barriers of various kinds, cooperation among tax administrators does

occur, typically on the initiative of the higher level of government, and more particularly its top level leadership, not its line tax administrators.

Federal-state tax cooperation is most developed in the case of income taxation. It began decades ago in response to one state tax commissioner's request for permission to inspect federal income tax returns filed from his state so that he might check corresponding state tax returns against them. From that modest beginning it has progressed to the exchange of tax return and audit information on an organized basis between the federal government and most of the states. The details of that success story have been narrated by James R. Turner, Director of the Internal Revenue Service's Research Division,¹² and need not be repeated here, beyond noting that it has proven to be profitable in terms of revenue recovered, particularly to the states.

CONCLUSION

The contribution to tax simplification of the intergovernmental arrangements and efforts here described is noteworthy in some places and totally absent in others. In light of the thought and energy directed to their promotion, the progress made is judged to be modest and understandably so.

Our forebears unwittingly bequeathed an inordinate amount of complexity when they made the federal government and the states co-sovereign in taxation, leaving each state nearly total freedom to forge its own revenue system and to prescribe for its counties, cities, townships, and school districts. This heritage, together with the unrelenting revenue pressure on state and local government and the competitive drive it generates to create a tax climate attractive to taxpayers— influences no one anticipated before this century—go a long way to explain why the search for tax simplicity has become a poor match for the drift into complexity.

Those impatient for simplification will do well to recognize that it comes packaged expensively; that in federal system it can be had only in exchange for tax autonomy. Eighty thousand taxing jurisdictions left to their own devices cannot help but produce tax complexity. The federal government could inflict simplification on the states, and the states could mandate it for their local governments, sweetened if need be with financial carrots; but in this cliché-prone society few with political aspirations would want to speak out for it and assume the onus of advocating federal coercion of states and state coercion of local governments.¹³

¹² Turner, *Federal-State Cooperation in Tax Administration*, 9 WM. & MARY L. REV. 958 (1968); see also Smith, *Automation in Tax Administration*, in this symposium, p. 751.

¹³ For further discussion, see ECKER-RACZ, *THE POLITICS AND ECONOMICS OF STATE-LOCAL FINANCE* (1970).