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Victoria Lau

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Tax Enlightenment



100th Anniversary of the 16th Amendment

By: Victoria Lau, *MST Student*

February 3, 2013 marked the 100th anniversary of the 16th Amendment. This article explains why lawmakers proposed the 16th Amendments and the legislative process for it to become part of the Constitution of the United States.

the Office of the Commissioner of Internal Revenue (later renamed as the Internal Revenue Services in 1953) to supervise the collection and assessment of tariffs and income tax. These early tax acts included sunset, or expiry, dates and the lawmakers allowed these first income taxes to expire in 1872. The Federal government relied on

“ARTICLE XVI. The Congress shall have power to lay and collect on incomes, from whatever source derived, without apportionment among several States, and without regard to any census or enumeration.”

Figure 1: Amendment 16 of the Constitution of the United States¹

Why was the 16th Amendment proposed?

The 16th Amendment authorizes Congress to levy income tax without reference to the States' population. Congress, however, first imposed progressive income tax starting in 1862 primarily to raise revenue for the Civil War. The Tax Act of 1862 also established

¹ From National Archives. Retrieved from http://www.archives.gov/exhibits/charters/charters_downloads.html

consumption taxes in the form of tariffs as the main source of revenue.

Over twenty years later in 1894 during President Cleveland's administration, income tax at a rate of 2% for incomes over \$4,000 was enacted. This led to the Supreme Court decision in *Pollock v. Farm Loan and Trust Co.*² which held that the uniform tax imposed by Congress was unconstitutional as a direct tax on land that was not apportioned among the States based on population. The Court

² *Pollock v. Farm Loan and Trust Co.*, 158 U.S. 601, (1895).

formed its opinion based on its interpretation of two clauses of the Constitution: Article I Section 2 which states that “representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers” and under Section 9, that states “No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census.”

Many lawmakers at the time believed that Pollock was erroneous and, given an opportunity, the Court would distinguish or reverse Pollock. However, President William Taft urged Congress to propose a constitutional amendment rather than pass another income tax bill to directly challenge the Supreme Court. Taft was concerned that such a dare would weaken the Supreme Court and harm its prestige.³ He would later be nominated by President Warren Harding to serve as Chief Justice (1921 – 1930).

How was the 16th Amendment ratified?

Amendments to the Constitution of the United States must be either proposed by Congress with a two-thirds majority vote in both the House of Representatives and the Senate, or by a constitutional convention called for by two-thirds of the State legislatures. The 16th Amendment, like the other twenty-six amendments to the Constitution, was proposed by joint resolutions from Congress. It was unanimously passed by the Senate on July 5, 1909 and by the House a week later on July 12. Proposals for constitutional amendments do not require Presidential approval.

The proposed amendment must then be ratified by three-fourths of the State Legislatures for it to become part of the Constitution. The federal income tax on

³ Amar. A. (2006). *America's Constitution*, New York: Random House. p. 409.



Figure 2: Admission of States and Territorial Acquisition from U.S. Bureau of Census⁴

individuals was gaining popularity by this time but it still took 1,302 days for it to move through the States' Legislatures. On February 3, 1913, New Mexico was the 36th State to ratify the Amendment to meet the three-quarter threshold.⁵ There were only forty-eight states in the Union in 1913. New Mexico and Arizona joined in 1912 after the 61st Congress proposed the Amendment. Alaska and Hawaii did not gain statehood until 1959 to make up the current fifty states in the Union.

On February 25, 1913, during the last week of the outgoing Taft Administration, Secretary of State Philander Knox signed the proclamation to declare the ratification of the Amendment. President Woodrow Wilson took office on March 4, 1913 and the 63rd Congress enacted the Tariff Act on October 3, 1913.

⁴ Form the Perry-Castaneda Library Map Collection. Retrieved from <http://www.lib.utexas.edu/maps/histus.html>

⁵ House Doc. 110-50 (2007, Jul. 25). *The Constitution of the United States As Amended*. Retrieved from <http://www.gpo.gov/fdsys/pkg/CDOC-110hdoc50/pdf/CDOC-110hdoc50.pdf>

The 1913 Act introduced a normal income tax of 1% on net income with a personal exemption set at \$3,000, and a six-tier additional tax with a top rate of 6% on net income exceeding

the one hundred years since Congress had been given the authority to impose an income tax.



“The New Man on the Job” by John Scott Clubb, 1913 ([Tax History Project](#))

\$500,000.⁶ In 2012 dollars, an individual would pay 1% tax on income over \$69,500 and 7% tax on income in excess of \$11.6 million.⁷

In 1916, about 437,000 taxpayers filed a tax return.⁸ In 2010, 142,890,000 tax returns were filed,⁹ a three-hundred fold increase in

6 Section II(A)(1) and (2) of the Tariff Act of October 3, 1913 on Imports into the United States, Washington GPO 1913. Reproduced by the Connell University Library on OpenLibrary.org. Retrieved from <http://archive.org/stream/cu31924014051373#page/n1/mode/2up>

7 Per CPI Inflation Calculator from the Bureau of Labor Statistic. Retrieved from <http://data.bls.gov/cgi-bin/cpicalc.pl>

8 Tax Foundation. (2011, Oct. 18). Federal Individual Income Tax Returns with Zero or Negative Tax Liability, 1916-2010. Retrieved from <http://taxfoundation.org/article/federal-individual-income-tax-returns-zero-or-negative-tax-liability-1916-2010>

9 IRS SOI Tax Stats – Individual Income Tax Returns Publication 1304. Retrieved from [http://www.irs.gov/uac/SOI-Tax-Stats-Individual-Income-Tax>Returns-Publication-1304-\(Complete-Report\)#_pt1](http://www.irs.gov/uac/SOI-Tax-Stats-Individual-Income-Tax>Returns-Publication-1304-(Complete-Report)#_pt1)

1913 Tax Form ([National Archive](#))



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