

Mark S. Kaisen, Designated Federal Officer
President's Advisory Panel on Federal Tax Reform
1440 New York Avenue NW, Suite 2100
Washington, DC 20220

February 5, 2005

Dear Mr. Kaisen:

I am grateful for the opportunity to express my views on such an important subject as the Federal tax laws and request that these views be included in the discussions. My opinions are based upon a considerable number of years researching the Federal Income and Social Security tax systems and the benefits and drawbacks inherent within each. I have included, by reference to, the letter written to the Joint Committee on Taxation in response to their "Study of the Overall State of the Federal Tax System and Recommendations for Simplification 2001" (on line at the House web-site*). I also have included a letter written to Congressman Jerry Lewis in response to H.R. 25, 108th Congress (Fair Tax Act of 2003). I believe you will find that both are pertinent to the task of reforming the Federal tax structure.

This is not a protest of taxation; it is a request that the "Legislative History" of both tax structures be considered. It is my belief that the tax laws should be returned to their original intent, then the offset to reduced revenue be recovered through a "transaction tax" similar to that proposed in 1935 by the "revised" McGroarty Bill (H.R. 7154), or a "Fair Tax" as proposed by H.R. 25 (2003).

The President's executive order requires three considerations, all of which create a "revenue neutral" position. That, in my opinion, is impossible to accomplish at this late date within the Constitutional boundaries set by Article 1, Section 8, clause 1, and the 16th Amendment. However, to address the issues in order I offer these opinions.

(a) Simplify Federal tax laws to reduce costs and administrative burdens:

Raise the "personal exemption," for each working person, to a point that actually reflects reality for the majority of citizens, in compliance with the original intent expressed by Congress during the debates over the 16th Amendment. That is, the "personal exemption" is the allowance for personal, living and family expenses, in the same manner that expenses of operation are allowed to corporations in reflecting their "net-income" subject to tax. This information is available from the Statistical Abstract of the United States, although some modification would be necessary to the definition of "disposable income". Remove all other "itemized" deductions, including the standard deduction, as they would be unnecessary, thereby simplifying the tax return.

This would remove millions of tax returns from the system, thereby reducing the cost of administration and the ever increasing burdens of compliance. It would, at the same time, restore the confidence of the American people in the fairness of their government. The tax was intended to be paid under the principle of "ability to pay," not the ability to earn.

b) To share the burdens and benefits of the Federal tax structure in an appropriately progressive manner while recognizing the importance of homeownership and charity in American society.

Neither home ownership or charity is possible when government takes the life blood out of the employee's paycheck. Nor are the burdens "shared" when certain segments of the economic community, both low and high, are allowed to escape their responsibility. This is where a "transaction," or "fair tax" would be of benefit. The tax could not be escaped and everyone would contribute based upon their economic ability to consume products and services. This also returns the tax system to its original intent of free choice, not compulsion to pay tribute.

c) Promote long-run economic growth and job creation, and better encourage work effort, savings, and investment.

This one is right on. The primary effect of freedom is the creation of the ability to succeed, the desire to advance and provide a better life for one's self and family. Taking the money away, as through compulsory taxation, benefits no-one, in fact it discourages most from taking the chance to succeed. Dividing the tax burden between two measurements of liability will reduce the impact of using a single method, which neither is capable of "fairness" on its own.

Returning the system to its original intent can not be accomplished in the stroke of a single Act, it must be done over time. Increasing the "personal exemption" allowance will reduce tax revenue, instituting a "transaction," or "fair tax" incrementally with the increased personal exemption will keep the system "revenue neutral" and at the same time allow economic adjustment.

Sincerely,



Gary and Michele Given
P.O. Box 562, Joshua Tree, CA 92252
e-mail givenfamily@msn.com

- waysandmeans.house.gov/legacy.asp?file=legacy/fullcomm/107.../2-13-01/record/given.htm

cc Congressman Jerry Lewis

TRACKING # 0304 1070 0001 0013 5588

Congressman Jerry Lewis
Rayburn House O.B., Room 2112
Washington, DC 20515-0540

July 6, 2003

Dear Mr. Lewis:

Thank you for your interest in our case and responding to our letter of June 2, 2003. As you are aware we are very much interested in tax reform; it's nice to see that Congress is too.

I have read the proposed legislation, available on the House web-site and have several comments, in relation to the point of our objections, that I would like to make. As you know there are always several methods of obtaining the same goal, although one may be better than the others. To this end, why would Congress want to throw out the baby with the bath water? It's not the baby that's bad.

The objection to the current regulations, at least for the majority of us who are simply "employees", is not that we must pay taxes, but rather, we have no choice in paying those taxes. In that regard a national sales tax is welcomed. However, it has its drawbacks. Our only real objection to the current "interpretation" of the tax code is that it is administered as though it were a "capitation" tax. I see no difference in the H.R. 25 proposal. Is it really Congress' intention that the people of our country should live in poverty? Why then do they use the "poverty" level as a basis for the sales tax refund? If this is the case, then perhaps it is time for Congress to propose a "capitation" tax and apportion it to the States in compliance with the Constitution. On the other hand, there may be a more logical way. Wouldn't using the Statistical Abstract information be closer to reality for the majority of American citizens, thereby reducing the above objection?

Table 722 of the 1998 Abstract is titled "Selected Per Capita Income and product Items in Current and Real (1992) Dollars: 1960 to 1997". This table tracks the income, federal income taxes, as well as the consumption expenses, of the average citizen on a "per capita" basis. Where as it may not be an exact science, it certainly is closer to reality and may be less objectionable to the majority of us who must work in order to support ourselves and families. This, however, is not the final answer, for it excludes "reality" for those in large metropolitan areas with a much higher cost of living.

Our second concern is that, in reality, Congress does believe they have the authority to levy a "capitation" tax, without apportionment. It is evident by the definition of "person" provided for in the text of the proposed bill. Taxes levied upon people, or property, must, by the specific wording of the Constitution, be apportioned. The fact that Congress calls it a "National Sales Tax" does not change that requirement. The existing tax code is ambiguous in this regard in that it only deals with "individuals", not specifically "natural persons". It is our belief, from the study of history, that the specific term "individual," as used in the tax code, carries the meaning of single owner, sole-proprietor, and or independent contractor, not "natural person". I believe you will find that the Secretary of the Treasury made this clear under the definition of "person" in

26CFR301.7701-1, -2, and -3. Wherein a "natural person" may operate such activities, each activity is not, in reality, the natural person and therefor the tax operates as an excise upon the activity, not as a "capitation" tax upon the "natural person". H.R. 25, on the other hand, specifically identifies the object of the tax to be the "natural person".

The problem in raising the personal exemption is not so much the revenue decrease, as shown by Congress' willingness to reduce the tax rate, but more the massive reduction in the number of taxpayers. Perhaps, under our Constitution, this is the way it was meant to be. If it is Congress' intent that everyone should pay a tribute to offset the cost of government, then the way for that to be accomplished was clearly provided for. If, however, it is Congress' intent that everyone should contribute to the cost of government on the basis of their "ability to pay", then that ability, in order to avoid the objection of the former, must be based upon something other than the poverty level.

May we propose an alternative solution? We understand that by raising the personal exemption to an acceptable level, i.e., one that adequately reflects the cost of living for the majority of citizens throughout the United States, the amount of revenue is correspondingly decreased. But then, by putting the entire burden on a National Sales Tax the amount of tax is correspondingly increased, beyond a reasonable level of "ability to pay" for the majority of citizens. The combination of the two systems would seem to satisfy the dilemma and be more within the Constitutional power of Congress.

We do not object to being taxed, unless that "tax" is an effort by Congress to circumvent the Constitutional safeguards provided for by our founding fathers. If the tax burden has grown so large that Congress can no longer control it within the enumerated boundaries, then it is time to reevaluate the purpose for those taxes and return the Country to the solid footing established by the written Constitution.

Thank you for your concerns, we are looking forward to the possibility of addressing this issue with you and others in order to find a reasonable solution.

Sincerely,

Gary Given