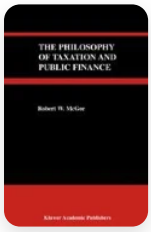
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The Philosophy of Taxation and Public Finance

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Abstract

Excise taxes, or any taxes for that matter, violate property rights, since they take property without the owner's consent. The argument that voters consent to be taxed is a phony argument when subjected to analysis, but we will not get into that issue here, since it has been discussed elsewhere.[1] The point of this chapter is to discuss another abuse of the tax system, the use of taxes to alter or punish behavior rather than to raise revenue. Although this chapter emphasizes how the excise tax is used as a tool of social engineering, any tax could be used to alter taxpayer behavior, so much of what is said about excise taxes could also be said about other taxes.

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NOTES

1 Lysander Spooner, No Treason: The Constitution of No Authority, originally selfpublished by Spooner in Boston (1870), reprinted by Rampart College (1965, 1966 & 1971), and by Ralph Myles, Publisher, Inc., Colorado Springs (1973); Robert W. McGee, Some Tax Advice for Latvia and Other Similarly Situated Emerging Economies, International Tax & Business Lawyer 13: 223–308 (1996), at 229-233; Robert W. McGee, Taxation and Public Finance: A Philosophical and Ethical Approach, Commentaries on the Law of Accounting & Finance 1:157-240 (1997), at 160-165.

2 This premise is subject to dispute. Reviews of the economics and public finance literature failed to find a single justification for taxation that would hold up to close analysis. See Walter Block, The Justification for Taxation in the Economics Literature, in The Ethics of Tax Evasion 36–88 (Robert W. McGee, ed. 1998); Walter Block, William Kordsmeier and Joseph Horton, The Failure of Public Finance, 2 Journal of Accounting, Ethics & Public Policy (Winter 1999); Walter Block, William Kordsmeier and Joseph Horton, Public Finance, Perfect Competition and Externalities, Commentaries on the Law of Accounting & Finance (1998).

3 Whether providing functions other than the protection of liberty and property is a legitimate function of government is highly questionable. When government goes beyond these basic functions, the result is the disparagement of property rights and liberty rather than their protection. We will leave discussion of this point for another day. See Walter E. Williams, More Liberty Means Less Government, Stanford: Hoover Institute Press, 1999; James Bovard, Freedom in Chains: The Rise of the State and the Demise of the Citizen, Palgrave Macmillan, 1999; James Bovard, Lost Rights: The Destruction of American Liberty, New York: St. Martin's Press, 1995; James Bovard, Shakedown: How the Government Screws You from A to Z, New York: Penguin, 1995; Robert Higgs, editor, Hazardous to Our Health? FDA Regulation of Health Care Products, Independent Institute, 1995; James T. Bennett and Thomas J. DiLorenzo, The Food and Drink Police: America's Nannies, Busybodies & Petty Tyrants, New Brunswick, NJ: Transaction Publishers, 1999; Walter K. Olson, The Excuse Factory: How Employment Law is Paralyzing the American Workplace, Free Press, 1997; Richard K. Vedder and Lowell E. Gallaway, Out of Work: Unemployment and Government in Twentieth-Century America, New York: New York University Press, 1997; Richard A. Epstein, Mortal Peril: Our Inalienable Right to Health Care? Perseus Publishing, 1997.

4 For more on the theory of secession, see David Gordon, editor, Secession, State & Liberty, New Brunswick, NJ; Transaction Publishers, 1998; Robert W. McGee, The Third Liberal Theory of Secession, Liverpool Law Review 14: 45-66 (1992); Robert W. McGee, The Theory of Secession and Emerging Democracies: A Constitutional Solution, Stanford Journal of International Law 28: 451-476 (1992); Robert W. McGee and Danny Lam, Hong Kong's Option to Secede, Harvard Internationa! Law Journal 33: 427-440 (1992); Robert W. McGee, Secession and Emerging Democracies: The Kendall and Louw Solution, Journal of International Law & Practice 2: 321-335 (1993); Robert W. McGee, Secession Reconsidered, Journal of Libertarian Studies 11: 11-33 (1994).

5 John Locke, Two Treatises on Government (1690). Locke's ideas are discussed in many places, including Richard A, Epstein, Principles for a Free Society: Reconciling Individual Liberty with the Common Good, Perseus Books Group,

1998, pp. 25-28, 251-264; Richard A. Epstein, Simple Rules for a Complex World, Cambridge, MA: Harvard University Press, 1995; Robert Nozick, Anarchy, State and Utopia, New York: Basic Books, 1974; Murray N. Rothbard, For a New Liberty, revised edition, New York: Libertarian Review Association, 1978, pp. 31-36; Murray N. Rothbard, The Ethics of Liberty, New York and London: New York University Press, 1998; Tom Bethell, The Noblest Triumph: Property and Prosperity Through the Ages, New York: St. Martin's Press, 1998.

6 When France's Louis XIV heard that the people were complaining about excessive taxes, he remarked that "since everything belonged to him, he was only taking what was his." Charles Adams, For Good and Evil: The Impact of Taxes on the Course of Civilization, Madison Books, 1993, p, 217.

7 Hitler's party was the National Socialist Party, yet people labeled him a Fascist. In reality, there is not much difference between the two. Under socialism, the means of production are owned by the state. Under fascism, the means of production are privately owned but so heavily regulated that owners have practically no property rights left. For a summary of the attributes of the four classifications of political systems, see The World's Smallest Political Quiz at www.theadvocates.org/quiz.html.

8 Karl Marx, Critique of the Gotha Program (1875). The original wording was "Jeder nach seinen Fähigkeiten, jedem nach seinen Bedürfnissen." Louis Blanc, the French socialist, said basically the same thing in 1848. George Seldes, The Great Thoughts, New York: Ballantine Books, 1985, p. 274.

9 A number of studies have shown that the graduated income tax cannot be supported on economic grounds. See Walter J. Blum and Harry Kalven, Jr., The Uneasy Case for Progressive Taxation, Chicago: University of Chicago Press, 1953; FA Hayek, The Case Against Progressive Income Taxes, The Freeman 229-232 (1953).

10 Karl Marx, The Communist Manifesto (1848).

11 For discussions of taxation and efficiency, see Richard A. Posner, Economic Analysis of Law 523–525 (5th ed. 1998); Harvey S. Rosen, Public Finance 284-334 (5th ed. 1999); John Cullis and Philip Jones, Public Finance and Public Choice 159-166 (2nd ed. 1998); Michael L. Marlow, Public Finance: Theory and Practice 139-141, 449-458 (1995); David N. Hyman, Public Finance: A Contemporary Application of Theory to Policy 53-57, 68-73, 96-97, 410-413 (6th ed. 1999).

12 The Ramsey Rule suggests that high excise taxes be imposed on products that have a highly inelastic demand curve because high tax rates will not discourage consumption. For more on the Ramsey Rule, see Taxing Choice: The Predatory Politics of Fiscal Discrimination 4, 13-18, 81, 97 (William F. Shughart, II, ed. I997); Richard A. Posner, Economic Analysis of Law 389-391 (5th ed. 1998); John Cullis and Philip Jones, Public Finance and Public Choice 376, 380–381 (2nd ed. 1998); Harvey S. Rosen, Public Finance 310-312, 318 (5th ed. 1999); Michael L. Marlow, Public Finance: Theory and Practice 455 (1995); David N. Hyman, Public Finance: A Contemporary Application of Theory to Policy 426n (6th ed. 1999).

13 Paula A. Gant and Robert B. Ekehund, Jr., Excise Taxes, Social Costs, and the Consumption of Wine, in William F. Shughart, editor, Taxing Choice: The Predatory Politics of Fiscal Discrimination, New Brunswick, NJ and London: Transaction Publishers, 1997, pp. 247–269; Adam Gifford, Jr., Whiskey, Margarine, and Newspapers: A Tale of Three Taxes, William F. Shughart, editor, Taxing Choice: The Predatory Politics of Fiscal Discrimination, New Brunswick, NJ and London: Transaction Publishers, 1997, pp. 57-77 at 67.

14 William F. Shughart, II, The Economics of the Nanny State, William F. Shughart, editor, Taxing Choice: The Predatory Politics of Fiscal Discrimination, New Brunswick, NJ and London: Transaction Publishers, 1997, pp. 13–29 at 15.

15 Some philosophers would have more than two classifications for ethical systems. However, upon closer analysis, these other categories break down into some subcategory of utilitarianism. For a discussion of the various subcategories of the utilitarian philosophy, see William H. Shaw, Contemporary Ethics: Taking Account of Utilitarianism, Oxford: Blackwell Publishers, 1999.

16 According to utilitarian ethical theory, an act that produces the greatest good for the greatest number is ethical and ail other acts are unethical. Since excise taxes are inefficient, thus not producing the greatest good for the greatest number, they are unethical according to utilitarian ethical theory. Richard A. Posner, Economic Analysis of Law 284–285 (5th ed. 1998); William H. Shaw, Contemporary Ethics: Taking Account of Utilitarianism 10 (1999). A variation on the utilitarian theme is the wealth maximization view, which holds that "…the criterion for judging whether acts and institutions are just or good is whether they maximize the wealth of society." Richard A. Posner, The Economics of Justice, Cambridge, MA: Harvard University Press, 1983, p. 115.

17 Murray N. Rothbard, For a New Liberty 23 (rev. ed. 1978).

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