

**NO TAXATION WITH OR WITHOUT
REPRESENTATION:
Completing the Revolutionary Break with Feudalist Practices**

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ABSTRACT

Taxation is a vestige of feudalism and monarchy. It persists because of the mistaken belief that government is somehow entitled to a portion of our labor or assets. This article challenges that belief from a philosophical perspective and offers a different viewpoint.

Taxes are bad. It's not just taxation "without representation" that is destructive and unjust. It's taxes, period.

The American Revolution constituted a principled rejection of monarchy and feudalism. It established that individual human beings, not rulers or government, are sovereign; that individuals have rights to "life, liberty, and the pursuit of happiness"; that government exists only to safeguard, not routinely violate, these rights.

But the revolution is not complete.

A feudal vestige

Through most of history, governments—usually monarchies headed by kings, emperors, pharaohs and sundry other tyrants—legally owned everything under their rule, including the people. We are all children of God. So the king, as God's surrogate, was routinely, though not uniformly, thought to be justified in taking the same stance as God toward us here on earth. In those regimes the population was regarded as subjects, not citizens. They were treated as the underlings, subject to the will of

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the ruler. To the extent that they were allowed to go about their business, it was by sufferance, not by right.

In these social systems the institution of taxation was a cruel method of outright subjugation, perpetrated by rulers upon their subjects. Because the rulers owned everything, subjects living on the land had to pay for this privilege. When they transformed nature into something useful for human life, the fruits of that work belonged to the king. In such a context, taxation made sense—what is produced is collected as taxes, with the people allowed to keep enough to keep working for the king. These subjects thus enjoyed no legal right to the land they worked; no legal right to their own labor; no legal protection of the basic rights of individuals.¹

Gradually this absolute power began to be checked and contained, as the idea spread that people in government are human beings after all, not gods or divinely anointed surrogates. It dawned on many that the rulers had no (divine) right to rule anyone other than themselves. Indeed, between the 11th and the 18th centuries, the idea began to gain headway that every human individual possesses a basic, natural right to his life, liberty and property. Anyone wanting to gain the benefit of another's work or other assets would have to ask for it. Sovereignty lay with individuals, not the state.

But though we in the U.S.A. no longer believe in feudalism and the divine right of kings, many of the features of monarchies gained a life of their own even after monarchies were abolished or at least relegated to ceremonial status. Taxation is one such relic, a particularly corrosive one. It persists as a legacy of feudal "rent" taking, with rationales that continue to regard citizens as serfs.

The American Revolution affirmed that kings and such possess no such divine rights and that the individual is sovereign. But the Founding Fathers didn't finish the job. Instead of transforming public finance from a coercive to a voluntary system, the framers left taxation intact, albeit with the proviso that there at least be representation along with it. Those who love government more than individual rights have exploited this anomaly to expand the state. It is not surprising. Whenever one compromises a

principle, the compromise eventually threatens to devour the principle altogether. (This is why ethics counsels us against even little white lies—it corrupts character, and makes it easier to tell the next lie.) Sadly, there remain many apologists for continuing one of the feudal era's worst practices. Instead of finding a just, humane way to fund legal services, these denizens of government and universities struggle to convince us that when government steals our wealth, it has a right to it.

If there was ever one who stated unambiguously the neo-feudal case for the institution of taxation, it was August Comte, the father of modern sociology and an avid champion of socialism. Defending a secular version of divine right, Comte argued that everything we have belongs

to Humanity.... Positivism never admits anything but duties, of all to all. For its social point of view cannot tolerate the notion of right, constantly based on individualism. We are born loaded with obligations of every kind, to our predecessors, to our successors, to our contemporaries. Later they only grow or accumulate before we can return any service. On what human foundation then could rest the idea of right, which in reason should imply some previous efficiency? Whatever may be our efforts, the longest life well employed will never enable us to pay back but an imperceptible part of what we have received. And yet it would only be after a complete return that we should be justly authorized to require reciprocity for the new services. All human rights then are as absurd as they are immoral. [To live for others], the definitive formula of human morality, gives a direct sanction exclusively to our instincts of benevolence, the common source of happiness and duty. [Man must serve] Humanity, whose we are entirely.²

It is this view more than any other which now is invoked to support the belief that taxation is just: that from birth to death everyone is obligated to pay with some portion of his life for whatever benefits of society he may enjoy. On this view, we are in bondage from the start, with no question about whether we have voluntarily assumed our debts.

With or without representation

If the American Founders had accepted the notions of those intellectuals who enthusiastically endorse the institution of taxation in even its most abusive manifestations, there would be no United States of America, the bastion of individual liberty in the world. There would be no glimmer of hope of extending its ideas to further regions of human life. But more than two centuries ago, the leaders of this country had the revolutionary courage to call for more liberty for its citizens than those in other countries had. This call has by now been seriously eclipsed by the call of the most prominent of our current intellectuals and leaders. These leaders do not even see the point of mentioning, let alone expanding, the protection of individual liberty.

Of course, calling for liberty didn't always suffice, which is why slavery had to be abolished, for example, and why there is so much more work to be done along lines laid out in the Declaration of Independence. But all in all, despite certain compromises and failures, the call for more individual liberty has been one of the cornerstones of America's uniqueness. One thing the Founders failed to do—I am not sure whether they even considered it—was match the system of financing the government to their new idea about the relationship between citizen and that institution. It was clear to them that, properly understood, government is hired by the people and is not their ruler. But that also means that government does not own the products of the people's labor and enterprise.

The Founders didn't abolish taxation as they should have. But they did try to ensure that taxation is never imposed without full and proper representation in government. They believed this would guard against any eager-beaver tax and spend policy. It was

the famous pre-Revolutionary patriot James Otis who said, "Taxation without representation is tyranny," and it became one of the revolution's rallying cries. By now, however, the American tax system does not even adhere to this less overarching power-curbing principle. Today the tax policies of the United States of American are more bloated and tyrannical than those of George III, against whose government the Founders waged their revolutionary war.

The idea of no taxation without representation has been nearly forgotten. Today, throughout the country, people who cannot vote on tax measures affecting them are nonetheless taxed more and more—in hotels, restaurants, airports, stores, business of all kinds. Government even taxes members of future generations, ones certainly not represented in Congress. Some taxes are imposed directly by regulatory agencies, without approval from Congress (and of course, many of the regulations of these agencies are expensive to comply with and constitute a kind of *de facto* tax). What is far worse, but to be expected, given the logic of such processes, is that instead of confining taxation to financing the only proper function of government, "to secure [our] rights," taxation is now used to fund virtually every kind of project the human imagination can conceive and the supporters of which can be favored by politicians.

The public has been persuaded to believe that taxes are absolutely necessary. So they have taken their eyes off their own money to the extent that they don't bat an eyelash over this abomination. You will notice, if you travel about, that only in America does the sales tax get added to the prices and wages being charged in trade. In other countries, which are much more closely linked to various monarchical eras, no such separation is in evidence. That is because in America, for a while, it was at least important to keep in mind that government is seizing our wealth, that it is ours and doesn't automatically belong to it. But even that little gesture is in danger of disappearing, what with so many hidden taxes on the books in our time.

Were we at all loyal to the letter, let alone the spirit, of the revolutionary idea of the Founders, we would long ago have switched from taxation to some truly voluntary means of funding government. With a return to the limited role government was to have played in our lives, this would be no idle dream—scholars and other thinkers have conceived of such voluntary systems and found them promising.³ But instead of working to complete the Founders' revolution, politicians and their intellectual apologists have driven us further and further from it. All we have left of the spirit of the American Revolution is a little bit of rhetoric. And that is all that will remain—perhaps even vanish in time—unless the ideas and ideals of the Founders are recovered.

In fact, taxes have no place in a free society. In such a society one has inalienable rights—rights that can never be justly violated—to life, liberty and the pursuit of happiness, among other rights. And if that's true, some other means must be found to pay for legal services. For free adult human beings, government can only be a hired agent, even if a powerful one (something like a bodyguard or an arbitration agency). Its services, however, must be provided not by imposing them on citizens—i.e., the feudal and despotic approach—but on a voluntary basis, for a reasonable charge. That is the only way to prevent the legal authorities from exercising arbitrary power. Otherwise, like organized criminals, government will become not a hired agent but an extortionist and paternalistic bully, lording over us. In a democratic context this is mitigated a bit by the fact that some measure of collective consent is sought from the citizenry. But as the American experience shows, this helter-skelter check and balance is hardly adequate to constrain the power of government. If taxes were abolished, our governors could be held more accountable and their power could be limited.

Alas, the idea of a tax-free society is too radical to even be considered by those who set the terms of mainstream public policy discussions, so few will consider the alternative. The bulk still accept some version of the perverse view that government owns

everything and that no one ought to challenge what it decrees should be done with its property.

An extortion racket

But isn't it the case that, to quote Justice Oliver Wendell Holmes, Jr., "Taxation is the price we pay for civilization"? It has a nice ring to it, but it's a ruse. It was asserted by a man who had no sympathy at all for limited government.

"And what is the state but a servant and a convenience for a large number of people, just like the electric light and the plumbing system? And wouldn't it be preposterous to claim that men must exist for their plumbing, not the plumbing for the men?" asks one character in Ayn Rand's first novel, *We The Living*.⁴ What folks don't seem to understand is that a truly just society is a place where people can live without having to suffer denial of their basic humanity. Being human is a matter of making moral choices about one's own life, which is why we need freedom; to be oppressed by others is to directly thwart that moral decision-making. That is why slavery was such a vicious institution, an assault on human dignity. That is why any kind of coercion must be banned. People require, for their flourishing, to be free. When our freedom is impeded, even just a little bit, our humanity is under assault.

The fact that for most of human history people lived under oppression doesn't undermine the moral point I am making here. Throughout history there has also been theft, rape, robbery, murder, assault and all kinds of related evils; yet no one would seriously argue that these are just part of the price we pay for civilization. It is clear-cut enough that these practices are evil.

Yet what is taxation but the coercive imposition of an ongoing, heavy burden on persons without their consent? It is the same type of thing that burglars, robbers, embezzlers and all others do when they confiscate wealth from its rightful owners. These criminals, too, believe that they, not the rightful owners, ought to decide how the loot should be deployed. They do not necessarily devote all the loot to personal comforts, either—they may well spend it on projects that benefit others or some worthy cause.

There is no telling ahead of time where the loot will go. What we know for certain is that those who do the looting want to determine this themselves.⁵

But, didn't "we" enter into a social compact that resulted in the tax system we have? No, not if we indeed possess inalienable rights to life and liberty. No contract can obligate contracting parties to forfeit anyone's rights. I certainly may not contract that you lose your rights. A contract may only be entered into voluntarily—unwilling third parties may not be conscripted into it. If, as in the case of the United States, a society is grounded on inalienable individual rights, the only way government can come about is through the "consent of the governed." And while this concept had been understood too loosely, even by the American Founders, its meaning is clear: you and I must consent to be governed.⁶

In a sense, of course, we do thus consent if we remain within the legal jurisdiction of a just government; but only to the extent that its governance is in fact just. It is the just powers only of government that we can sanction, and taxation isn't one of the just powers of government. To be properly funded, some other means—but in any case a voluntary means—must be found. But since this is a very novel idea—about as novel even in the United States as free markets are in the former Soviet bloc countries or freedom of religion in Iran—studies on to how to do so are in short supply. (And most universities are tax-funded, so they aren't too likely to encourage alternative ways of funding government!)

Sure, there are police and judicial services that make living free from violent intrusion more likely. These services cost something. But civilized life requires that we pay and obtain these services only if we choose to do so. We should, if we want, be free to try doing without the services and suffer the consequences. In practice, most of us would not try to live without cops, courts, and the military, all of which make working, owning property, and trade feasible and convenient. But we can arrange to obtain these services without using force. We don't need to be subjected to

extortion and coercion in order to be defended from extortion and coercion; that's how the mob operates.

Like all extortion, taxation is difficult to fight. Furthermore, in the case of taxation the very people on whom we rely to combat criminal extortion are the enthusiastic extortionists themselves. They are the judges, politicians, police officers, all kinds of agents of various levels of government—all part of the system the Founders of the American Republic had called upon "to secure these rights." Those in government and their supporters who defend its supreme role in society often believe, sincerely, that their coercive institution is necessary, performing a function much like that of parents or guardians in relation to children.

They may start by saying, "Well, we must have such extractions so as to provide citizens with the police, the military and the courts." But they never end there. Once they have gotten millions of us to say, "Oh, yes, those things are vital, so you go ahead and use coercion to get them," the next step is to say, "Well, now that we have the authority to use coercion, why not use it for all kinds of lovely purposes in addition to providing security from others?" And the scope of the state then grows and grows and grows, as does its size, the moral argument against these having been compromised. These folks are convinced that what they provide for us is so vital that there is no need to stoop to requesting permission to provide it, so long as some sizable portion of the citizenry—via some kind of democratic process (but one wherein many third parties have been coerced)—is willing to go along. Never mind whether consent to take the fruits of their labor and other resources from them has been obtained from all those who are to be benefited and from whom payment is coercively extracted, on penalty of fine or imprisonment.

Sure, those bent on perpetrating this scam want us to believe something else, namely, that they just want us to be less selfish and to help other people more. Yet this assumes that while all us mere citizens are inept at knowing how we could help others, folks in government are experts at this task and more virtuous than the rest of us to boot. Surely this has no historical basis to it. There

is far more waste and pork, even outright mendacity, in government than anything private citizens could cook up. So even from the point of view of helping people, it is best to leave the money with those whose it is in the first place. They'll do just fine in distributing portions of it to those who are in dire straits or just need some help to carry on with worthy tasks that may not get sufficient backing from the marketplace.⁷

But extortionists never get enough. Government officials have even claimed that tips should be taxed because they are a form of income. But income is payment for services rendered. If you do not pay the income of those who work in restaurants—for example, if you walk out without paying for your dinner—you are subject to prosecution. If you don't pay for the furniture delivered to your home, you can be sued. If your barber does not receive the payment you owe for the hair cut he or she provides, again you are in trouble with the law.

But now ask yourself—as per the suggestion of Jackson R. Wheeler—what happens if you don't pay a tip? Nothing much, other than getting some people angry at you. But angry or not, no legal action can be taken at you. Your sin is not failure to pay for service rendered, but to provide a customary gift to those who rendered the service beyond the call of duty. An almost automatic gift but a gift just the same. Gifts are not taxable, certainly not as income. Yet in California, for example, restaurants must add 8 percent of their income to the income they earn, as an estimate of the tips received. It is ridiculous but not surprising. The government wants whatever it can get.

The opposite view, laid out first by John Locke, is that each of us comes into the world free and independent and as adults we then take up various tasks, including certain responsibilities toward others, as a matter of our free choice. But no one has any claim to our effort or the products of our effort prior to our having made a free decision about the matter. So, just as Jimmy Carter lusted in his heart, I "cheat" on my taxes in my heart. Unlike Carter, though, I don't think I'm sinning. It is only because the consequences of

refusing to pay what the government claims I must pay would be so devastating, do I continue to pay.

If taxation were indeed morally mandatory—if whenever we gain some benefit from someone in trade we would really owe money to the state—then every time we were the beneficiaries of the generosity of friends when, for example, we travel, we would be committing theft. Escaping the costs of a hotel, car rental, or anything else would amount to nothing less than an immoral act of theft, inasmuch as we also escape payment of taxes thereby. Yet of course, no one in his or her right mind considers it immoral to accept the generosity of friends. Nor does anyone believe that we are cheating the rental car company or the hotel chain by failing to use their services.

Those who try to justify taxation often claim that everyone owes taxes to the government because, well, the money is the government's in the first place. We do not really own our wealth. It's government that owns it and lets us have a bit out of generosity.⁸ But if this were so, we should all be naturally guilt-ridden when we fail to act in ways that produces taxes for government. And, of course, all those professional tax-escape helpers, who show us how to hide our wealth effectively and thereby escape the extortion perpetrated by governments, would be aiding and abetting crimes rather than performing a valuable and peaceful service.

Taxation prevails because we have yet to fully grasp the implication of individual rights and of rejecting the idea of the divine rights of kings and bureaucrats.

Immoral or impractical?

In 1957 Ayn Rand published *Atlas Shrugged*, a riveting novel in which the most productive people—who create wealth but who are being devoured by exorbitant government regulation and taxation—decide to go on strike and teach the country a lesson. The result is that the country goes belly up. At the end of the novel it seems that these productive folks will be able return and be

allowed to produce without all this state regimentation, the best way in which they and their fellows could possibly interact.

In 2000 Joel B. Slemrod, a University of Michigan professor of business economics, edited a book entitled *Does Atlas Shrug?*⁹ Slemrod considers the question of what exactly are the economic consequences of high taxation on the rich?

The answer arrived at, after 15 eminent scholars have conducted their more or less technical economic analysis, is that, "All in all, these studies do not suggest anything like the complete withdrawal of productive energies that Ayn Rand warned of." But, adds the editor in his introductory essay, "Nevertheless, the tax system clearly induces people to rearrange their affairs and change their behavior, and these changes are evidence of an unseen but real cost of levying taxes."

As Frederick Bastiat taught us,¹⁰ it is difficult to assess the impact of taxation because this impact is indeed most often unseen. Thus it cannot be measured by the standards of empirical economic science (nor depicted effectively on television). That is one reason the editor notes that the evidence is "mixed on the question of how, and how much, today's Atlases shrug." The ones that are shrugging totally may, of course, not be providing any evidence at all to be analyzed. They are simply not there.

Of course how people react to having some of their wealth taken from them by force, extortion and intimidation will vary. Some will work harder, some will continue as is, writing it all off as just the price of being left in peace (albeit with fewer resources to conduct their enterprises than would have been available without the taxation), while others will withdraw or even take up arms.

Yet looking at the matter solely with respect to how people will behave in response to taxes does not do the topic justice. For one thing, Ayn Rand wasn't making an economic forecast. Hers was at most a prediction in the if-then mode: "If all the producers realize how badly they are being treated, then they would likely withdraw." Actually, it was more a dramatization of moral advice, as portrayed in the high-level meetings between John Galt and

various captains of industry: "If you productive folks know what is good for you, you will not tolerate being ripped off by those who do it to you left and right, throughout history. Withdraw and see how they come running to you then." The venue is fiction, of course, and Rand in her lifetime did not ever believe that life in the U.S. had become so oppressive that the producers were warranted in withdrawing en masse from economic activity. But she certainly always believed that businessmen should not give "the sanction of the victim" to their own destroyers; that they should, rather, proudly assert their moral right to their honestly produced wealth.

You may think this advice is selfish, and, indeed, Rand intended it as such. But is this really objectionable? Is it not a counsel of "selfishness" when we tell battered wives to leave their brutal husbands? Or when we advise someone to care for his or her health, family, and other ingredients of a decent life? Selfishness—unless it is the perverse type that involves using others against their will—is not bad at all. It is the virtue of prudence, a virtue we need to exercise if we are to live well.

Atlas Shrugged is a novel and a romantic one at that. It is not intended to be a naturalistic portrayal of the consequences when bad things happen to good people. It is, rather, a work of imagination involving moral principles—framed, yes, in black and white terms, just as all clear moral advice should be, even when the actual situations we must contend with are complicated or murky.

Morality, like all disciplines, seeks abstract principles and then implores those who would apply these principles to do so with intelligence and integrity. This is also what engineers seek to do with the principles of engineering and mathematics. Even when an engineering solution is less than perfect given the constraints of a messy situation, it will not be any solution at all if it ignores the absolute fact that two plus two equals four, that gravity exerts a certain force, that a piece of tape can provide only a certain amount of adhesion.

The empirical approach cannot tell us how much taxation is proper—or whether any at all is.

Imagine if that were the method by which someone went about assessing the merits of kidnapping, rape, murder, suicide, adultery, lying, cheating, and other evils humans can perpetrate. What if, upon rigorous economic analysis, it turned out that women who've been raped eventually became wealthier, more skilled at their work and even, perhaps, more self-confident, in comparison to women who haven't been? Would that warrant changing our assessment of rape or the law against rape? Or what if kidnapped children developed a stronger sense of adventure and courage, in general, following their experience? Would this suffice to render kidnapping a moral good? Or what if burglaries, at times, induce the victims to go out and work harder to recover the losses? Do we then laud burglary as aiding and abetting the Protestant work ethic?

No one can tell for sure what people will do in the face of adversities that do not incapacitate them. We are different, all of us, in many respects, even while we are the same in others. When the American Founders observed that all men are created equal, they made clear that this equality pertains to the inalienable rights to life, liberty and the pursuit of happiness that all equally possess in virtue of common humanity. But once these rights are secure, how things will turn out cannot be predicted. On the whole, of course, one would expect that a system of just principles would foster a better life for those governed by them. But in particular cases and times this may not be so, even if it is over the long haul.

Once this is recognized, the entire way of discussing tax cuts has to be revised. For example, let us assume that there is no way to make sure that the wealth citizens retain will be spent in a way that stimulates economic growth. Sure, that is one of the justifications George W. Bush and his economists put forth in order to make their tax-cut plans jive with mainstream thinking. Such thinking, you may recall, cites how your money and mine can advance various macro-economic or public policy objectives, such as reducing unemployment, bolstering stock values, increasing investments and all the rest. The assumption seems to be that the country is some kind of huge conglomerate and government's

economists are its managers, entrusted with making the enterprise economically viable. Of course, that's a misguided way to view government, and all kinds of disappointments must flow from such thinking.

One problem with expecting tax cuts to stimulate the economy is that people who are “generously allowed” to keep more of their own wealth may not choose to dispose of it productively, at least not as determined by macro-economic standards. After all, just because more wealth enables us to invest and spur employment, it doesn't mean that we will all actually do so. Accordingly, those who are skeptical about the stimulus potential of Bush type tax cuts can easily appear credible—who knows what people will do with more money in their pockets? Sure, they may spend a good deal of it. But that is by no means certain.

If, however, George W. Bush had a clearer understanding of the very words he kept using as he defended his plans to cut taxes—namely, that the money taken from us is ours and when returned via tax cuts, it is returned to those to whom it already belongs—he would also have recognized that we might not dispose of it as he and his advisors would prefer. After all, when you own something fair and square, you are the one who gets to decide what to do with it. No one should harbor expectations that you will do their bidding. The bottom line is that tax cuts should occur not because they will stimulate the economy or do other fine macro things but because the money is ours by right. If that were the explicit reason Bush and his team gave for tax cuts, the liberal democrats couldn't fuss about whether it will or will not lead to various macro-economic objectives. It is none of their business anyway.

Despite the inconclusiveness of Slemrod's study, there is no reason to be inconclusive about the relevant moral principles here. It is wrong to tolerate thievery and extortion.

Robbery versus charity

Some folks view opposition to taxation as per se greedy, stingy, and uncharitable, a proof of ungenerous nature. Why would one wish to hold on so obsessively to what one has earned—or, indeed, inherited or been given or maybe just found (say in the ground, as when one discovers oil by accident)—if one understands how much others could benefit from a portion of one's wealth?

But, in fact, taxation deprives taxpayers of the opportunity to be supportive of various good causes. When a person gains wealth by whatever honest means, there is more he can do with it than buy goodies to be piled up in his home or estate. Sure, we do spend our resources on food, clothing, gadgets around the house, vacations, and similar consumption goods and services. Why not? We are human beings who live in a world with many chances for self-development and self-enhancement. A trip to Paris, four years in college, a dependable health insurance policy, a nice birthday meal at a fancy restaurant—spending one's wealth on such things can be a good idea, indeed. Life is to be lived—and we ought to strive to thrive living it. No need for apologies here at all, however much some people want to make one feel guilty for this. They forget, usually, that others who might be in greater need desire to escape their lot so they, too, can one day obtain just such things for themselves and their loved ones.

But the ability to obtain such goods and services is not the sole benefit of wealth. A great deal of one's wealth enables one to decide, in line with one's own best judgment, who else or what else should be supported with what one owns. Taxation, by contrast, confiscates from the owners a substantial portion of what they own so that others may decide where the wealth will go and what good works (if any) it will do. Thus taxation denies the taxpayers' fitness to be a good judge of worthy recipients of the taxpayer's generosity.

At the same time, of course, the government itself often proves inept or corrupt in how it spends the money it steals. Public officials themselves freely complain of this. The paradox is that the

complaints divert attention from the immorality of the very process that makes possible all the corruption and bungling.

Politicians love talking about abuses of government power, just as they love talking about government waste. It makes it seem that there is no problem with the plain use of such power or the spending of funds, only with the abuses and waste! It is true that we don't want the Internal Revenue Service to feel it can behave with any degree of arbitrariness, trampling taxpayers underfoot, and simply get away with it. But if we focus too much on how really brutal the IRS can be when left unchecked, we may forget that even when it is "kind and gentle," the agency is doing something wrong. Innocent men and women should not have money extorted from them, no matter how important the cause! And the IRS is the arm of such extortion. A friendly mugger is still a mugger. And even if he gives some of the cash he stole to charity.

Escaping the vicious cycle

Many features of monarchies gained a life of their own even after monarchies were abolished or at least diminished to ceremonial status. Taxation is one such feature. It could and should eventually be replaced with a system of fees for service rendered. In the U.S. there is implicit awareness of this when it is argued that ultimately taxes are paid voluntarily. This notion is a fiction, but one required by the logic of the inalienability of individual rights to life, liberty and the pursuit of happiness, the idea of which still exerts a certain persistent tug on America's political conscience.

Some of the language surrounding President George W. Bush's proposal to cut taxes also implicitly acknowledged that taxation in a free society is an anomaly. For example, as just noted, Bush has told us as candidate and as president that it is we who own our income and other assets, not the government. This observation may simply be a way to irk liberal democrats, who tend to treat all wealth as belonging to the government. But whether Bush knew it or not, to admit that our assets belong to us implies that taxation is a form of immoral taking—or theft or

extortion or robbery. Unless the sums the government takes from us are given to it by willing citizens, there is no way to disguise the fact that the taking is a violation of our right to property, hence immoral.

How would voluntary funding of government work? It would involve, mainly, attaching a surcharge to all contracts drawn up among citizens, contracts that require the force of law for their backing—including courts, police, and military, all of which serve the purpose of keeping the peace, including securing a civilized adjudication of contractual disputes. One would still be free to enter agreements apart from contracts, via a hand shake or a promise. But the millions of corporations doing business cannot afford such informality, so they would enter into contractual relationships and need to pay for the service governments provide to back these up.¹¹

I don't have a comprehensive blueprint for the transition to a tax-free society. It may be too soon to draw one up: the size and purview of government must first be drastically reduced. But I am confident that if the idea were not dismissed so readily by those eager to tax fellow citizens for projects of their own, human beings could put their minds to the task profitably enough and find a way to eliminate the scourge of taxation. As a truly free society were more closely approached, the task would become both more exigent and more viable. Taxes could be eliminated in phases as new and voluntary methods of funding government were brought on line.

The call for abolishing taxation is just a further step in the direction of living up to the promise of the American Revolution. Ultimately, taxes need to be replaced with a form of payment for government services that is uncompromisingly consistent with the principle of "the consent of the governed." Barring such a development, all we can do is press the point: reduce taxes, privatize services, and through this make us all more free.

Endnotes:

¹ There are today some political theorists and legal scholars who are intent on reintroducing just this rationale for taxation, claiming that individual rights are grants from the government, not based on human nature, having no pre-political foundation. See, for example, Stephen Holmes and Cass Sunstein, *The Cost of Rights, Why Liberty Depends on Taxes* (New York: W. W. Norton, 1999), and Liam Murphy and Thomas Nagel, *The Myth of Ownership* (New York: Oxford University Press, 2002).

² August Comte, *The Catechism of Positive Religion* (Clifton, NJ: Augustus M. Kelley Publ., 1973), pp. 212-30.

³ See, for example, Tibor R. Machan, "Dissolving the Problem of Public Goods: Financing Government Without Coercive Measures," T. R. Machan, ed., *The Libertarian Reader* (Lanham, MD: Rowman & Littlefield, 1982), pp. 201-208, and Ayn Rand, "Government Financing in a Free Society," in E. S. Phelps, ed., *Economic Justice* (Baltimore: Penguin Books, 1973), pp. 363-67.

⁴ (New York: Signet, 1996), p. 72. Perhaps "servant" is misleading—more on the order of a hired professional, like a dentist or attorney. Government is an organization for the purpose of rights protection, as medicine is for health protection or education is for advancement of knowledge. All are to benefit human beings who employ their professionals.

⁵ The theory that people will tolerate considerable taxation before they revolt is supported by ordinary psychology. They will do the same with out and out burglary, for a while, after which they will stop producing unless it is stopped. It is no argument in support of taxation that many do not take to the streets about it—often it simply doesn't pay to protest wrong-doings.

⁶ We do not, however, need to consent to others defending themselves from aggressors; so a constitution that consists primarily of policies that protect individual rights does not require universal consent, on the consent needed to provide it with sufficient power to oppose crime. See, for more along these lines,

Randy E. Barnett, *Restoring the Lost Constitution; The Presumption of Liberty* (Princeton, NJ: Princeton University Press, 2004).

⁷ For a fuller discussion of these points, see Tibor R. Machan, *Generosity; Virtue in Civil Society* (Washington, D.C.: Cato Institute, 1989).

⁸ Op. Cit., Murphy and Nagel, *The Myth of Ownership*.

⁹ Joel B. Slemrod, *Does Atlas Shrug? The Economic Consequences of Taxing the Rich* (Cambridge, MA: Harvard University Press, 2000).

¹⁰ Frederick Bastiat, "What is Seen and What is Not Seen," in *Selected Essays on Political Economy*, George B. de Huszar, ed. (Irvington-on-Hudson, NY: Foundation for Economic Education 1995), pp. 1-50.

¹¹Op. cit., Machan, "Dissolving," and Rand, "Government Financing."