U.S. INCOME TAX POLICY:

MODELS OF DEVELOPMENT

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> "The tax code offers a variety of easily grasped levers. In this sense, it is an incrementalist paradise, susceptible and seductive to political tinkerers."
>
> John Witte (1985)
>
> "Tax legislation has become a catch-as-catch-can affair that produces complexities, unfairness, conflicting moves in all directions, almost mindless provisions . . . ."
>
> Stanley S. Surrey (1981)
>
> "Just as China in the 1960s has perpetual revolution, so the United States in the 1980s has perpetual income tax legislation."
>
> Daniel Shaviro (1990)

Introduction

Contemporary U.S. tax policy has been unstable, unpredictable, and overly complex as federal policymakers use the income tax for disparate and often contradictory purposes. At times policymaking for the income tax takes on a distinctly nonpartisan character; at other times, it is highly partisan. This odd pattern of tax policymaking results as congressional policymakers follow the "rules" of the "tax game" established by the overall structure of American politics and institutions (*i.e.*, the "constitution" of the regime). The instability of federal tax policy is attributable to the peculiar structure of American political institutions—which is characterized by divided and shared powers as well as institutional and structural fragmentation. Likewise, the rules of the tax game are defined by the pluralist structure of political power which prevails in the United States. The resulting tax policy accommodates nearly every organized interest at once, preserving prior tax policies even while constantly grafting new and often contradictory policies onto the Internal Revenue Code.

Instability has marked contemporary tax policy for decades as political coalitions (and their attendant tax policies) come and go. However, the instability was particularly intense during the 1980s as tax policy dramatically shifted direction throughout the decade—first following the broad dictates of supply-side economics in 1981 and then tax reform in 1986. The 1980s ended with tax policy adrift and no clear direction evident. The major tax bill enacted in 1993 during the first year of the Clinton administration seemed to signal a return to pre-1986 patterns of tax policymaking. However, any such movement came to a screeching halt in 1994 with the electoral triumph of the Republican Party in Congress. The "new" Republican tax policy laid out during the first session of the 104th Congress evidences the high degree of partisanship which underlies contemporary tax policy as well as the continued volatility of the enterprise as a whole.

The dominant theoretical models commonly advanced by social scientists to describe and explain the development and politics of the federal income are considered below. Pluralism has provided the most comprehensive descriptive model of the structure of power in American politics. Incrementalism is often said to describe the federal tax policymaking process.

Incrementalism offers a model for a *process* of making public policy through gradual adjustments to, and departures from existing programs. Incrementalism and pluralism are often combined into a single model employed to describe the "normal" congressional policymaking for the income tax.

Indeed, the incremental/pluralist model is highly descriptive of the policymaking for the income tax during most of the long period of stability and sustained prosperity of the post-War era. But notwithstanding the considerable power of the incremental/pluralist model, it fails to explain the almost schizophrenic pattern of tax policymaking witnessed in the 1980s as well as the highly partisan tax policy which has periodically prevailed—most particularly, during the late 1940s and the early 1990s. Recently, the chairman of the House Ways and Means Committee expressed his desire to dismantle the Internal Revenue Service and "tear the income tax out by its roots and throw it overboard."[1] Such radical partisan rhetoric expressed by the congressional policymaker charged with stewardship over raising the federal income tax is not what would be anticipated from a policymaking process dominated by a pluralist politics or incremental decisionmaking. Nor was the enactment of major tax reform legislation in 1986. Likewise, the model is not very useful in describing tax policy during those periods of wartime crisis when the most important and radical innovations in the income tax have been implemented.

For these reasons, an outline is presented below for an alternative typology to explain the long-term development of the federal income tax— taking into account not just the "normal" politics of the income tax, but also the more radical and partisan aspects of tax politics.

Pluralism

For the past three or four decades, pluralism has been the dominant model applied by political scientists to describe the structure of the American political system.[2] The pluralist model is highly descriptive of the decentralized institutions of policymaking and structures of power which characterize American politics. A pluralist political structure is one in which power is widely dispersed and the apparatus of policymaking is readily accessible to numerous groups and interests, with no single group or interest capable of dominating the institutions of decisionmaking or the outcomes arising thereunder. Policy outcomes are generally dictated by bargaining among those groups which are organized and represented in the political decisionmaking process. As such, pluralist power structures tend to produce a distinctive politics to the extent that numerous interest groups possess, or potentially possess, the power to influence specific and narrow aspects of policymaking, with no single group capable of imposing upon the rest wholesale or radical departures from existing policy.

Critics of pluralist theory have long argued that because a pluralist politics is most responsive to well-organized groups representing the most important economic interests (most particularly, "Big Business" and the "Wealthy"), legislative outcomes are skewed in favor of these special interests at the expense of the "public interest."[3] This critique of pluralist theory rests upon the premise that special economic interests are over-represented in the political process. But that is an empirical proposition which must be verified. The history of the development of the federal income tax over the past century suggests that the story is much more complicated. Business interests and the wealthy have played a major role in shaping tax policy at various times, but they have hardly controlled the tax policymaking process, and just as often they have been the big losers in the struggle over tax policy—most particularly, in 1986. The real problem is not that the pluralist structure of political power favors the wealthy and business interests in tax policy, but rather that the policymaking process is so porous that virtually every interest has had its way with tax policy at one time or another.

The formal institutions of policymaking (*i.e.*, Congress and the tax committees) are readily accessible at multiple points to the pressures of a wide range of organized interests. Policymakers respond with narrow policy decisions in order to accommodate dominant, organized interests with favorable new policies or modifications of existing policies. Congressmen are particularly exposed to these pressures as they are in the unique position of being forced to compete in the electoral arena for the right to hold their office. As a result, the long-term tendency is for congressmen to preserve special benefits which already have been granted to those organized interests with access to the institutions of decisionmaking, and at every opportune moment, enact new ones in response to the almost constant political pressures exerted upon. This has especially been the case in regard to the policymaking for the federal income tax.

The policymaking characteristic of congressmen acting within the parameters of such a pluralist politics is most often ascribed to the traditional politics which takes place within the tax committees.[4] The interest group politics commonly attributed to the federal income tax was succinctly described by Professor T. S. Adams in his presidential address to the 1927 Annual Meeting of the American Economic Association:

> [M]odern taxation or tax making in its most characteristic aspect is a group contest in which powerful interests vigorously endeavor to rid themselves of present or proposed tax burdens.[5]

What was already recognized as the "normal" politics of the federal income tax in 1927 is described by the pluralist model of interest group politics.

However, not *all* of the politics of the income tax is explained by the pluralist model. During various historical periods, tax policy has reflected a much more partisan and ideological politics as opposed to the instrumental, nonpartisan tax policies typically generated by a pluralist/interest group politics. The success of tax reform in 1986, as well as the emergence of a dominant and highly partisan Republican tax policy following the 1981 and 1994 elections, should remind us of that political patterns which have persisted for decades can change suddenly. In the case of the 1994 elections, the partisan character of the entire Congress changed dramatically and unexpectedly as decades of uninterrupted control of the tax legislative process by Democrats came to an abrupt end. This could not but have had a profound impact upon the direction and character of tax policy given the strength of commitment of the new House Republicans to their tax policy agenda.

Part of the problem with applying the pluralist model to the income tax is that the model is time-bound as it presupposes the stability and persistence of those structures within which tax policy has been made for the past half-century or so. The pluralist model explains fairly well the politics which generally prevailed during the period following the defeat of the then dominant congressional Republican Party and its tax policies in the 1930s, but it fails to adequately describe long-term trends and the sudden and dramatic changes in tax policy periodically experienced at crucial historical junctures. The limits of the pluralist model were most evident during the 1980s as a pattern of unstable and highly partisan tax politics overwhelmed the normal politics of the income tax which had dominated in prior decades. For instance, the pluralist model failed to predict, and fails to explain retrospectively, the dramatic success of the politics of tax reform in 1986 or the ascendancy of Republican tax policy first in 1981 and then again in 1994.

The pluralist model focuses upon Congress and its committees and assumes a dynamic interest group politics which drives tax policymaking. To this extent, the influence of partisanship and ideology are slighted. Both the pluralist and incremental models are blind to the possibility of radical departures from existing policy resulting from ideological commitments or shifts in partisan allegiance which lead to (or reflect) "critical realignments" of the prevailing party system. Thus, notwithstanding the great descriptive power of the pluralist model during periods of normal tax politics, limitations in the model are evident as it is applied to the long-term history of U.S. fiscal policy—which is a history of long periods of stable pluralist politics marked by dramatic and sudden changes and radical policy innovations, of which the income tax was undoubtedly one of the most important. This suggests that some modifications and accommodations in the pluralist model are warranted.

Incrementalism

Political scientists have observed that within the prevailing pluralist structure the federal income tax has developed over time through a process of "incremental" decisionmaking.[6] The term incrementalism was apparently first introduced to public policy analysis in 1953 by Charles E. Lindblom and Robert A. Dahl.[7] Incrementalism purports to describe the way in which decisionmakers actually reach solutions to problems of public policy, but it also suggests a design for problem-solving. As John Witte has put it: "The model was presented as an empirical description of how the vast majority of real life world decisions are made, particularly in government, and it was justified normatively as the most rational, if still imperfect, method of reaching decisions."[8] One intellectual history of the discipline of political science describes Dahl and Lindblom's conceptual formulation of incrementalism as a *strategy* for decisionmaking:

> By incrementalism, Dahl and Lindblom meant a series of policy adjustments starting from the basis of existing policy, recognizing its advantages and disadvantages, and continuing in small steps via calculated risks, where immediate additions to old policy will not at once achieve all goals but at the same time will not unduly invite unforeseen consequences.[9]

In this respect, incrementalism is a useful model both to describe and evaluate a wide-range of federal policymaking, especially that of the federal income tax.[10]

As a descriptive model of decisionmaking, incrementalism holds that policymaking generally evolves through evolutionary or incremental departures from existing policies, rather than through radical breaks in, or the adoption of wholly new policies.[11] This mode of decisionmaking has been closely associated with pluralist structures of political power wherein the interest group politics typically lead to incremental modifications of existing policies. As such, the theory describes a good deal of American policymaking. Perhaps the most notable example of the application of the incremental model to public policymaking is Aaron Wildavsky's seminal account of the budgeting process. According to Wildavsky: "Budgeting is incremental. The largest determining factor of the size of this year's budget is last year's budget."[12] The process of budgeting is one of marginal adjustments and departures from existing budgetary appropriations.

Another area of policymaking which readily fits the incremental model is that of the U.S. social security program, which has developed gradually over the last fifty years through periodic additions to and expansions upon existing programs. Martha Derthick has described the predominant pattern of policymaking for social security as follows:

> Policy planning in the Social Security Administration has always consisted of planning for changes within the framework of established programs. . . . To the extent that executive leaders of the program have articulated a philosophy of policy formation, this philosophy stresses gradualism.[13]

The policymaking for social security over the course of the first three decades of the program is best described by reference to an incremental model—*i.e.*, policymaking consisted of a process of making marginal additions and modifications to existing social security programs.

But if incrementalism is highly descriptive of most social security policymaking during the first three decades of the program, certain limitations show up in the incremental model as applied to certain events in the history of the program. For example, incrementalism fails to explain why the social security program was adopted in the first place by the Roosevelt administration in 1935. Even this relatively modest and limited initial legislation was a radical departure from the traditional and virtually nonexistent federal policy of aiding the aged and poor. Incrementalism fails to explain such radical, ideologically motivated departures from existing policy.

More recently, Derthick has described one radical (and largely unsuccessful) social security policy which was a major departure from the normal pattern of incremental policymaking for the program—the enactment of the supplemental income program (SSI), which was thrust upon the social security administration by Congress in 1972.[14] Derthick's explanation of this non-incremental development in the social security program looks to factors external to the traditional social security decisionmaking process itself—*e.g.*, to an atypical intrusion into the social security policymaking process by Congress, as well as broad political initiatives from the executive. In addition, over-zealous courts seized much of the policymaking initiative away from the agency with respect to this particular policy program. Thus, even while incrementalism is highly descriptive of the decisionmaking process for this particular public policy during most of its history, the model does not adequately describe the policymaking prevailing during all periods or with respect to all aspects of this single program.

Furthermore, if the legitimacy of the social security program continues to decline and the revenue from the payroll tax no longer supports the expansion or even maintenance of existing programs, incremental social security policymaking could cease altogether. Use of general revenue from the Treasury to fund social security deficits is an unattractive option for policymakers confronting significant annual federal budget deficits. In addition, unforeseen and unintended consequences of the program, such as the massive redistribution of resources from current younger workers to retired (and in many cases wealthier) beneficiaries, have undermined public confidence in the program (especially among younger workers). These kinds of changes in the broader political system and/or external environment could impose a new framework on the politics of social security, and hence, modify the present dominant pattern of incremental policymaking for the program. Derthick was already aware in the mid-1970's that the prior pattern of incremental growth for social security might be nearing an end as she correctly perceived that the political climate had changed by that time—prior to the imposition of the severe budgetary constraints on policymaking which became commonplace in the 1980s and 1990s:

> Growth of the system through the 1950's and 1960's depended crucially on the politician's calculations that incremental additions were advantageous, but the context was highly favorable to expansion. . . . The pattern of ad hoc incremental expansion may still continue, even with an automatic formula in place and even in the presence of heightened resistance to expansion, but if so it is likely to be attended by much higher levels of conflict than were characteristic of the past. . .[15]

Should conditions change and the political landscape shift further away from the post-New Deal liberalism which characterized the 1960s, unchallenged support even for such "sacred cow" policy programs as social security could end—perhaps it already has. If the federal deficit forces policymakers to implement significant cuts in federal expenditures reaching "entitlement" programs such as social security, then all bets will be off and prior patterns of incremental expansion could very well cease. Quite simply, incrementalism is a model which may be descriptive of a particular policy program such as social security during specific periods and under certain circumstances (namely, economic prosperity and expansion), but inadequate to describe its development during periods of political change and under other less favorable economic conditions.

Much the same can be said for policymaking for the federal income tax. Like policymaking for social security, that for the income tax has been particularly amenable to incremental decisionmaking during the period of economic expansion following World War II. During such period, changes to existing tax laws have generally been made at the "margins" of the tax code. For example, the most prominent account of the politics of the post-War federal income tax emphasizes the incremental nature of the federal tax policymaking process:

> Legislative changes in tax policy usually begin as marginal adjustments to the existing tax structure. . . . The tax code offers a variety of easily grasped levers. In this sense, it is an incrementalist paradise, susceptible and seductive to political tinkerers. As a result, most changes in tax bills consist of simple adjustments in existing policy provisions.[16]

The policymaking for the federal income tax is well-described by the incrementalist model as most of the major tax bills enacted during the post-War period have consisted of little more than *ad hoc* collections of numerous minor modifications to existing provisions of the tax code produced by the logrolling and vote-trading of the pluralist/interest group politics which prevails in Congress. This type of tax bill became the norm during the 1950s and 1960s.

The federal tax laws have developed through incremental adjustments as politicians accommodate salient interest groups, individuals, or economic classes. In the long-run, this incremental policymaking works to the benefit of special interests as congressional policymakers amend the tax code over time to provide more and more exemptions to constituents feeling the adverse effects of particular tax provisions. This results in the legislative outcomes typical of incremental policymaking set within the context of a pluralist power structure—*i.e.*, "tax expenditures."[17] The overall tendency of incremental tax policymaking in a pluralist political structure is the adoption of more and more exemptions and special interest provisions by congressional policymakers. Similarly, incremental policymaking has contributed to expanding the tax base—gradually bringing more and more of the population and nearly all economic income under the income tax as policymakers search for additional revenue to finance the tax preferences they enact.

This then is the great restraint upon the expansionary tendencies of the incremental/pluralist policymaking process —namely, the federal government's constant need to raise revenue. Of course, the structure of the tax code also readily lends itself to legislating tax increases through relatively simple, marginal adjustments to the most revenue-sensitive provisions of the tax code (tax rates and exemptions). But this manifestation of incremental policymaking is considerably less popular among constituents —something George Bush learned in 1992 and Bill Clinton was reminded of in 1994. Overall, the "electoral connection" exerts pressures upon policymakers in favor of the incremental expansion of tax preferences rather than tax increases.

If tax policymaking really is an "incrementalist paradise," as has been suggested, it should be the ideal case to test the premises, possibilities, and limits of the pluralist/incremental model. On the other hand, if the model cannot explain or account for tax policymaking during such periods as the 1980s and 1990s, then its usefulness as a description of policymaking must be reconsidered.

The Limits of the Pluralist/Incremental Model

Prior to the 1980s, it was commonly argued that interest group politics so thoroughly dominates tax policymaking that any serious effort to enact "reform" legislation would inevitably be doomed to failure. Likewise, many observers of the federal income tax concluded that tax reform efforts were simply incapable of transcending the pattern of incremental policymaking attributable to the pluralistic power structure of American politics.[18] Because tax policymaking was thought to be part and parcel of a pluralist/interest group politics, it was easy to conclude that efforts to reform the tax code to better conform with the tax reformers' vision of a comprehensive income tax were "simply outside the realm of political possibilities."[19] Indeed, most scholars and informed observers of the federal income tax took just that position, declaring that tax policymaking had reached a serious impasse on account of the adverse impact of interest group politics on the decisionmaking process. As a consequence of adopting this view, many prominent scholars ended up widely missing the mark when various tax reform proposals began circulating about Washington in the fall of 1984. Most adhered to the view that pluralism, interest group politics, and the concomitant incremental policymaking associated with it, too thoroughly dominated the politics of the federal income tax laws to allow for fundamental tax reform. Based upon such an assumption, the most perceptive students of tax policy denied the possibility of reformist impulses ever succeeding.[20]

The failure of the pluralist/incremental model to predict or account for the passage of the 1986 tax act exposes the limits of the model as well as the inherent risks in attempting to predict the future course of federal tax policymaking. The limits of the incrementalist model of tax policymaking were evidenced in its inability to account for the possibility of a successful tax reform movement propelled by players and interests outside the "normal" political arena of congressional tax policymaking. The incremental model does not account for such radical, ideologically-driven departures in tax policy. Based upon prior experience with the federal income tax laws for the three prior decades, this was entirely understandable. However, any model of political behavior based solely upon extrapolation from past events will likely be inadequate to predict what are, by definition, radical departures from politics-as-usual.

Thus, the methodological shortcoming of the pluralist/incremental model is that even while it may be descriptive of tax policymaking much of the time, it is inherently blind to those rare bursts of ideological enthusiasm and "crisis politics" which, although outside the course of tax politics-as-usual, nevertheless have periodically dominated the tax policymaking process and had the most significant impact upon the long-term development of the federal income tax. If the dynamics of the legislative process most often conforms with the prevailing pluralist politics, this still does not represent the whole story, nor are Congress and "special interests" the only sources of tax policy initiatives. The congressional-based politics has been overwhelmed at critical historical moments. Likewise, changes in the party system such as those experienced in November 1981 and November 1994 have had a significant impact upon the course of tax policy, over-riding the general tendency for tax policymaking to proceed through incremental departures from existing policy. In other words, tax policy reflects more than just the dynamic interplay of interest groups and the members of the tax committees, and the most important provisions in the tax code are *not* the product of incremental development.

In fact, incremental policymaking *qua* "marginal adjustments to the existing tax structure" has been submerged by a more extreme politics of the federal income tax during the past decade. The irony is that the erratic course of contemporary tax policymaking has also been ascribed to the very same pluralist structure of American politics. It is said that the inability of pluralist politics and incremental policymaking to resist change deprives tax policy of coherence, stability, and direction. Ronald King has advanced this view: "Incrementalism thus causes not too little policy change, but too much change. It bestows favors not solely on the wealthy, but instead quite widely, with nearly every group receiving something especially tailored to appeal to its interest."[21] Public policy quickly shifts directions as decisionmakers cannot resist the pressures and demands of particular interests, lacking a vision of the public interest and coherent principles of tax policy. John Witte observes that: "[T]he democratic impulse to represent broad and diverse sets of interest, which is facilitated by an incremental/pluralist process, in the long run jeopardizes the basic purpose and legitimacy of tax policy."[22]

In the end, this may be the most damming critique of a pluralist politics—that it is responsible for *both* the stability and gradualism in tax policymaking and alternatively, "too much change." Hence, both the relative stability of incremental tax policy *and* the great instability and flux which periodically invades the tax legislative process are attributable to the pluralist structure of political power. But what the pluralist model lacks is the ability to account for these more radical and extraordinary manifestations of tax policymaking as well as the possibility of political change itself.

Normal and Crisis Tax Politics: An Alternative Typology

If normal U.S. tax politics is that of pluralism and incrementalism, the most significant developments in the tax laws and fiscal policy have occurred during periods of institutional instability—specifically, political crises internal to the political system and those attributable to external "environmental" pressures. The former is typified by the challenges to the extant political regime expressed by the more radical parties of the late nineteenth century as well as during the Depression. The later includes the military crises of the War of 1812, the Civil War, and the two World Wars of the twentieth century. The contrast between normal tax politics and that during such periods of systemic crisis is useful in explaining the long-term development of the U.S. income tax and suggests a perspective for modifying the pluralist/incremental model.

American political leaders made fundamental political decisions concerning the fiscal organization of the central state at various critical junctures in American history. For instance, one of the central issues of the Constitutional Period from 1783-1789 revolved around how to finance the central government. This was reflected in the political negotiations between the local state governments and national political elites over the nature and power to be granted to the national institutions—most particularly, its fiscal powers. Later, the highly charged political struggles over the tariff and excise taxes, as well as the subsequent battles over whether to adopt income taxation in 1860 and 1913, were issues of similar importance to the regime. These kinds of fundamental issues raise questions as to the "constitution" of the regime and are typically thrust upon political elites during periods of crisis. Such constitutional decisions must be contrasted with the normal political decisionmaking which otherwise prevails during periods of institutional, political, and economic stability.

As noted above, in the tax policy arena for the past four decades, such a normal politics has characterized most of congressional tax policymaking. The broad consensus which has marked the post-War politics of the past half-century reflects the general stability of the post-New Deal party system in which the Democratic Party maintained hegemony over the legislative process. Within the context of this political system, the normal tax politics has been a congressional-based politics producing an excess of tax expenditures. This tax politics-as-usual fits into the mold of a "distributive" public policy described nearly thirty years ago by political scientist Theodore J. Lowi.[23]

Lowi postulated three distinct types of politics (distributive, redistributive, and regulatory), each of which generates its own distinct "arena of power" and mode of public policymaking. Lowi's insight was that the particular type of policy generates a related pattern of policymaking, and not vice versa. The politics associated with distributive policies is characterized by logrolling and vote-trading in which special benefits are provided to constituents and interest groups.[24] Congressmen support subsidies earmarked for the constituents of fellow representatives as reciprocity for votes in favor of legislation that serves their own political needs and interests. This is the politics that has been ascribed to the federal income tax, at least within the context of the prevailing party system and institutional structure that normally dominates congressional tax policymakers. But at other times, very different modes of politics have characterized tax policymaking. The problem is to account for the "abnormal" tax politics and explain how and why tax policymaking moves from one to the other. Rather than the type of policy dictating the attendant mode of policymaking, as Lowi suggests, policymaking for the income tax at any given moment has mostly been determined by a combination of factors, including the prevailing institutional structures and the external environmental pressures imposed upon the political system from without.

During specific periods of constitutional regime crisis, tax politics has departed from the pattern of a distributive politics. Then tax politics has more closely resembled the "redistributive" politics described by Lowi. Redistributive politics involves transfers in favor of the interests of significant social or economic interests or classes at the expense of others. The policies which are associated with redistributive politics reflect and often exacerbate underlying social or economic cleavages—for instance, pitting labor against capital, agrarian interests against industry, or the poor against the wealthy. The politics of redistribution can achieve long-term stability only as these dominant interests reach some measure of societal equilibrium among themselves. Characteristic of the policies associated with redistributive politics is a higher degree of ideological rhetoric and greater levels of intensity as those policies in favor of a particular economic group or interest are at the expense of other clearly defined (and often well-organized) economic or social groups.[25] This is the "zero-sum" politics expressed in the battle over the initial adoption of an income tax, as well as the partisan politics over progressive tax rates to be used for redistributive purposes. It also applies to the persistent partisan divisions over tax rate reduction and the preferential rate for capital gains.

Lowi's typology also provides for a regulatory politics generating policies which are relatively unstable as the interests of one interest group or industry are pitted against the interests of all others. The direction of regulatory politics tends to shift over time as various ideological positions come to dominant the preferences of regulators. The political institutions associated with regulatory policy are often highly-insulated from the pressures and input of special interest groups as the key actors in the regulatory process tend to be professionals who are not exposed to the pressures of the electoral connection, and likewise who are less susceptible to yield to the pressures and entreaties of lobbyists. This is the politics of tax reform pursued by tax professionals on the congressional staffs, but especially those in the bureaucracy of the Treasury Department. At various moments political conditions have permitted this regulatory politics to overwhelm and supplant the normal tax politics, such as from 1985 to 1986. In that case, the normal congressional politics came together with the policy "stream" of tax professionals. According to John Kingdon, in 1986 there was a convergence of three "streams"—politics, policy, and "problem" (*i.e.*, the emergence of a consensus that the income tax was a problem to be "fixed"). As such, the precondition was established for tax reform to rise off the "governmental" policy agenda and become a bona fide political issue.[26] On the other hand, during periods of normal tax politics, the policy stream typically works against the political impulses of politicians. The latter usually prevails, resulting in the incremental policymaking which furthers the electoral goals of congressmen.

Political historian Dall Forsythe applied Lowi's typology to a study of American fiscal and tariff policy from 1781-1833.[27] Forsythe concluded that Lowi's categories did not comport with the various forms of tariff policy displayed throughout this period, leading him to propose an alternative typology emphasizing the role of "crisis" and the behavior and responses of political elites at key historical moments. Forsythe's alternative typology, along with Lowi's original categories, is useful as well in classifying and explaining the various phases in the politics of income taxation during the past one hundred-fifty years. The refinement of Lowi's typology is found in the attention to external environmental threats and internal regime crises as the mechanism and stimulus for political change.

Forsythe's typology fits American tariff and revenue policy into four categories modeled on Lowi's original scheme. The typology is as follows: regime politics, authority crisis, environmental crisis, and normal politics. According to Forsythe, "normal politics is characterized by a limited number of established participants, by a well-defined institutional arena for decision-making, patterns of logrolling, negotiation, and compromise, and by implementation of decisions through routine administration."[28] This distributive politics of logrolling and interest group pressures personified the politics of the tariff during the first decades of the twentieth century.[29] Likewise, this has been the dominant politics of the federal income tax during most of the post-World War II period.

Regime politics "involves the most fundamental kinds of political questions. . . . If conflict in normal politics is muted and contained, conflict in regime politics is highly visible, dramatic, and difficult to circumscribe."[30] This mode of politics has surfaced in the past two centuries of American tax politics only briefly and periodically during intermittent outbursts of political enthusiasm—for instance, during the pitched political battles over the adoption of an income tax (heard in the intense political debate on the floor of Congress in 1860, 1894, and 1913) and in the rhetoric of the radical agrarian parties of the last decades of the nineteenth century calling for a steeply graduated income tax to effect an egalitarian politics with its goal the radical restructuring of the American regime. "In regime conflicts (and especially in tax disputes) . . . . the patterns useful for the resolution of normal disputes are no longer applicable. Logrolling cannot settle an argument if participants see the conflict in zero-sum terms."[31]

While Forsythe focused his attention on regime conflicts such as the Whiskey rebellion and the struggle between Southern agricultural interests and Northern industrial interests over the tariff, much the same analysis can be applied to the political disputes from 1783 to 1789 over the fiscal organization of the new regime. Likewise, regime conflicts surfaced during the pitched political battle over income taxation waged from 1880 to 1913. This conflict raised fundamental issues concerning the nature of the regime and was eventually resolved only through the ratification of the Sixteenth Amendment, the adoption of the compromise income tax bill in 1913, and the gradual rollback of the tariff—in other words, a minor "reconstitution" of the fiscal organization of the American state.[32]

The politics of "authority crisis" is pertinent in describing the systemic crisis of the Civil War in which the very foundation of the regime was at stake. The military crisis which began in 1860 was over the authority of the American regime, and the threat to that regime forced even the most ardent opponents of income taxation (*i.e.*, Northern industrial interests represented through the Republican Party) to acquiesce in its adoption—at least until the military crisis was resolved on the battlefield. Likewise, the external "environmental crisis" experienced during the two World Wars of the twentieth century also resulted in a crisis politics which compelled political elites to accept radical innovations in American fiscal policy. The sharp increases in the income tax from 1918 were only justified by, and accepted on account of the environmental crisis of the War. As Treasury Secretary Andrew Mellon subsequently put it from the vantage point of the peace and tranquillity of the 1920s: "During [World War I] the highest taxes ever levied by any country were borne uncomplainingly by the American people for the purpose of defraying the unusual and ever-increasing expenses incident to the successful conduct of a great war. . . . In time of war or great public necessity, unusual tax measures can always be justified."[33]

In other words, the intensified revenue imperative exerted upon policymakers during periods of crisis (authority and environmental) suppresses the politics of interests and thus, becomes the agent of change in fiscal policy, thereby establishing the preconditions for radical departures and expansions in existing tax policies. One of the most peculiar and interesting aspects of tax policy is that its importance and scope actually expands during periods of military conflict, precisely while other domestic policies suffer retrenchment as spending cuts for such programs is necessitated by the fiscal crises and diversion of revenue to the military. This expansion is necessitated by, and justified by policymakers on account of the military conflict itself. Accordingly, the pattern of development of the income tax during periods of crisis is quite different from that of most other domestic public policies.

For instance, the radical expansion and transformation of the income tax during both World Wars was justified by policymakers and condoned by the populace in the face of the grave national emergency. The attendant crisis politics led to extraordinary increases in tax rates (reaching the historic high of 92% by 1944), reduced personal exemptions (subjecting more and more of the citizenry to the income tax) and broad expansions of administrative powers (including the introduction of "withholding at the source," an innovation which was initially favored by congressional policymakers during peacetime in 1913, but beyond their reach until 1943 during the war crisis).

The impact of wartime crisis on the income tax has generally persisted beyond those events which originally justified the expansion. In his comparative study of the factors which lead incremental policymakers to depart from base levels of government spending, Ira Sharkansky concluded that: "Generally speaking, the major trauma of depression, war, and postwar reconversion upset established patterns of spending and set new bases from which incrementalists began subsequent calculations."[34] Following both World Wars as well as the Depression, the politics of the federal income tax generally returned to the normal politics to which we have become accustomed in recent decades. However, the structure of the federal income tax was also permanently changed by the politics which prevailed during these crises. Many crisis innovations are retained during peacetime, even if subsequently weakened and modified. This was the case following World War II as wartime rates were retained beyond the cessation of overt military conflict. The revenue pressures occasioned by the Korean conflict, the Cold War and the expansion of the social welfare state in the Great Society programs of the 1960s, all continued to distort the normal politics of the income tax and tax rates persisted at wartime levels until finally withdrawn in 1981 in the wake of the "Reagan Revolution."

What remains to consider is why this normal distributive politics of the federal income tax seemed to come unglued during the 1980s. Both the strong partisan tax policies exhibited by the Republican Party in 1981 and 1995, as well as the politics of tax reform which prevailed in 1986, were outside the realm of the "normal" nonpartisan, distributive policymaking typically associated with a pluralist political structure. There clearly was no regime crisis during the period, nor was there any external environmental crisis in any way comparable to the Depression, Civil War, or the two World Wars. Nevertheless, there were significant departures from what would be expected from the normal politics of the income tax.

First, the decline in the economic growth rate experienced after 1973 changed the environment within which tax policy was made and revenue raised. One recent study has determined that from 1870 to 1972, the American economy grew at an annual rate of 3.4 percent after inflation; but that during the twenty-year period after 1973, the economy grew at only 2.3 percent a year after inflation.[35] This represents the worst economic performance during any twenty-year period since 1870. The cumulative effect of this loss of 1.1 percent in annual economic growth was severe, especially with respect to federal receipts under the income tax.[36] Beginning in 1981, a newly emergent budget crisis began to impinge upon the normal distributive politics of the income tax. Consequently, the politics of the income tax in the 1980s departed from a pure distributive politics which would otherwise be predicted by a pluralist/incremental model.

Other peculiar factors influenced and intruded into the congressional tax policymaking process during the 1980s. These include the rise of the media as an influence over the tax policymaking process, the effect of public interest groups in swaying public opinion as well as legislators, and the weakening of the committee system in Congress which unleashed so-called "policy entrepreneurs" (such as Rep. Jack Kemp and Senator Bill Bradley) and opened the door to these other new players in the tax game.[37] The odd coalition of tax reformers and supply-siders which came together in 1986 also evidenced aspects of a non-distributive politics of the income tax which surfaced during the decade. This all suggests that under the right conditions highly partisan, ideologically motivated tax policies are possible even within the context of the prevailing pluralist structure of power.

The possibility that the success of the Republican Party in the 1994 elections was a harbinger of some "critical realignment" of the party system which will generate a new tax politics in the years to come also must be considered.[38] In retrospect, it may be that the unstable tax politics of the 1980s was attributable in part to an impending shift or critical realignment of the post-New Deal party system in place for the past half-century. Whether the Republican victory in 1994 marked a critical election leading to a long-term realignment of the party system and permanent changes in tax policy remains to be seen. While there has been the inevitable talk of an impending critical realignment of the party system, some have wisely cautioned that the 1994 elections more likely evidenced the continued deterioration of the party system *per se* (*i.e.*, "dealignment") than a new era of Republican hegemony.[39]

If the politics of the 1994 elections persist through a realignment of the party system, the 1980s may well be looked back upon as a period of "regime politics" during which the parameters of tax policymaking were radically altered. This will be the case if the Republican tax agenda is embraced, implemented, and retained as the new orthodoxy. Conversely, if it turns out that such a critical realignment is no longer possible given the overall weakening and deterioration of the party system itself, as was suggested by the original theorists of critical elections, then the instability and volatility of tax policy in the 1980s will likely continue. The weaknesses of the political institutions will persist and the integrity of tax policymaking process will be undermined by radical (albeit temporary) swings in the electorate *and* by the pluralist interest group politics which flourishes so well in the absence of strong countervailing political power. If so, tax policy will continue to flounder.

ENDNOTES

[1] Quoted in "Archer Addresses Contract Compromises and Reform," 66 Tax Notes, February 20, 1995, p. 1083.

[2] Robert A. Dahl is the preeminent proponent of the application of pluralist theory to the analysis of American politics, incorporating pluralism into his broader theory of "polyarchy." Dahl's most important writings include: A Preface to Democratic Theory (Chicago: University of Chicago Press, 1956); Who Governs? (New Haven: Yale University Press, 1961); Polyarchy (New Haven: Yale University Press, 1972); Dilemmas of Pluralist Democracy (New Haven: Yale University Press, 1982); Democracy and Its Critics (New Haven: Yale University Press, 1989).

[3] See, e.g., E.E. Schattschneider, The Semi-Sovereign People: A Realist's View of Democracy in America (New York: Holt, Rinehart, and Winston, 1960); Grant McConnell, Private Power and American Democracy (New York: Vintage Books, 1966); Theodore J. Lowi, The End of Liberalism: The Second Republic of the United States, (New York: W.W. Norton & Company, 1969, 1st ed.); Jack L. Walker, "The Origins and Maintenance of Interest Groups in America," 77 Am. Poli. Sci. Rev. 390 (1983). Robert Dahl has responded to these critics in Dilemmas of Pluralist Democracy and Democracy and Its Critics; see also the Introduction to the 1992 edition of Dahl and Lindblom, Politics, Economics, and Welfare (New Brunswick: Transaction Publishers, 1992).

[4] For example, Truman took as given that in tax policy, well-financed special interest groups with a great stake in outcomes will tend to prevail in the legislative arena. David Truman, The Governmental Process (New York: Knopf, 2d. ed. 1971), pp. 361, 422.

[5] T. S. Adams, "Ideal and Idealism in Taxation," 18 American Economic Rev. 1 (March 1928).

[6] The most important recent study of the development of the federal income tax relies upon a pluralist/incremental model to explain tax policymaking. John F. Witte, The Politics and Development of the Federal Income Tax (Madison: University of Wisconsin Press, 1985), pp. 3-23, 244-270.

[7] Charles E. Lindblom and Robert A. Dahl, Politics, Economics, and Welfare (Chicago: University of Chicago Press, 1953); see also Charles E. Lindblom, "The Science of 'Muddling Through,'" 19 Pub. Admin. Rev. 79-88 (1959).

[8] Witte, Politics, p. 6.

[9] David M. Ricci, The Tragedy of Political Science (New Haven: Yale University Press, 1984), p. 167.

[10] Lindblom himself applied the theory of incrementalism to budgeting in Charles E. Lindblom, "Decision-Making in Taxation and Expenditure," in Public Finance: Needs, Sources and Utilization (Princeton: National Bureau of Economic Research, 1961), pp. 295-336.

[11] Dahl and Lindblom expressly disavowed the notion that incrementalism always means growth through gradual change. Rather they argued that incrementalism is a theory of growth through "relatively small adjustments in existing reality." In many cases, incremental changes are minor; however, in other cases, the increments can be more significant. See Dahl and Lindblom, Politics, Economics, and Welfare (New Brunswick, N.J.: Transaction Publishers, 1992 edition), pp. 82-85.

[12] See Aaron B. Wildavsky, The Politics of the Budgetary Process (Boston: Little, Brown, 1964), p. 13; see also The New Politics of the Budgetary Process (Glenview, Ill: Scott, Foresman and Company, 1988); "A Theory of the Budget Process," 60 Am. Pol. Sci. Rev. 529 (September 1960). A similar application of incrementalism to budgeting is John Wanat, "Bases of Budgetary Incrementalism," 67 Am. Pol. Sci. Rev. 1221 (September 1974).

[13] Martha Derthick, Policymaking for Social Security (Washington: The Brookings Institution, 1979), p. 25, pp. 23-27.

[14] Martha Derthick, Agency Under Stress: The Social Security Administration in American Government (Washington: The Brookings Institution, 1990).

[15] Derthick, Policymaking for Social Security, p. 428.

[16] Witte, Politics, pp. 244-245.

[17] Tax expenditures are defined by statute as "those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability." The Congressional Budget and Impoundment Act, Pub. L. No. 93-344, § 3(a)(3), 88 Stat. 298, 299 (1974). For a comprehensive discussion of the dynamics of the political process of legislating tax expenditures, see Stanley S. Surrey, Pathways to Tax Reform: The Concept of Tax Expenditures (Cambridge: Harvard University Press, 1973); see also Stanley S. Surrey and Paul McDaniel, Tax Expenditures (Cambridge: Harvard University Press, 1985); Joseph A. Pechman, Federal Tax Policy (Washington: The Brookings Institution, 5th ed. 1987), pp. 355-363.

[18] This view was best expressed by Stanley S. Surrey in his classic statement of the domination of interest group politics over tax policymaking. "The Congress and the Tax Lobbyist -- How Special Tax Provisions Get Enacted," 70 Harv. L. Rev. 1145 (1957). Surrey's account fully describes how some tax policies reflect special interests represented through lobbyists, but it totally ignores all other legislation that reflects ideological commitment to specific policies (such as the Republican tax policies of the 1940s and 1990s, as well as the supply-side economics pursued in ERTA), tax reform legislation that is entirely at the expense of such interests (such as the 1986 Act), and the impact of public interest groups on tax policy.

[19] Witte, Politics, p. 246.

[20] For instance, Michael J. Graetz of Yale University Law School and Assistant Deputy Secretary of the Treasury for Tax Policy during the Bush administration, wrote in 1984 the

following assessment of the possibilities of reform: "[P]rospects for structural tax reform have been dimmed by recent 'reforms' in congressional practices; public pressure to enact income tax reforms seems nonexistent; political leadership on tax matters has become increasingly diffuse. . . . In short, for those who would urge massive tax reforms, there is more than ample cause for despair." Michael J. Graetz, "Can the Income Tax Continue to Be the Major Revenue Source?" in Options for Tax Reform, Joseph A. Pechman (ed.), (Washington: The Brookings Institution, 1984), pp. 39, 42. John Witte wrote in 1985: "There is nothing, absolutely nothing in the history or politics of the income tax that indicates that any of these [tax reform] schemes have the slightest hope of being enacted in the forms proposed." Witte, Politics, p. 380. Witte addressed the shortcomings of his prediction in "The Tax Reform Act of 1986: A New Era in Tax Politics?" 19 American Politics Quarterly 438 (October 1991) and "A Long View of Tax Reform," 39 Nat'l Tax J. 255 (1986). Likewise, David Davies, an economist at Duke University specializing in federal taxation, wrote in 1986: "Meaningful [tax] reform, something beyond a multitude of political trades, under present political institutions essentially is doomed to failure." David G. Davies, United States Taxes and Tax Policy (Cambridge: Cambridge University Press, 1986), p. 287.

[21] Ronald F. King, Money, Time, & Politics: Investment Tax Subsidiaries & American Democracy (New Haven: Yale University Press, 1993), p. 33.

[22] Witte, Politics, p. xxii.

[23] Theodore J. Lowi, "American Business, Public Policy, Case Studies, and Political Theory," 16 World Pol. 677-715 (1964). Lowi further developed his analysis in "Four Systems of Policy, Politics, and Choice," 33 Public Administration Review 298 (1972).

[24] See Allen Schick, "The Distributive Congress," in Allen Schick (ed.), Making Economic Policy in Congress (Washington: American Enterprise Institute, 1983), pp. 257-274.

[25] For a more detailed description of redistributive politics, see John Ferejohn, "Congress and Redistribution," in Schick (ed.), Making Economic Policy, pp. 131-157.

[26] In the second edition of his well-known, Kingdon has added a chapter applying his model to the enactment of the Tax Reform Act of 1986. John W. Kingdon, Agendas, Alternative, and Public Policies (New York: Harper Collins, 2d ed. 1995), Chapter 10, pp. 213-217.

[27] Dall W. Forsythe, Taxation and Political Change in the Young Nation, 1781-1833 (New York: Columbia University Press, 1977), especially Chapter 5 ("Patterns of Politics") and Chapter 6 ("Political Change in the United States").

[28] Forsythe, Taxation and Political Change, p. 119.

[29] This politics of the tariff was the subject of the classic study by E.E. Schattschneider, Politics, Pressures, and the Tariff (New York: Prentice-Hall, 1935).

[30] Forsythe, Taxation and Political Change, p. 120.

[31] Forsythe, Taxation and Political Change, p. 121.

[32] For a discussion of the overall "reconstitution" of the American state during the Progressive period, the reader is referred to Stephen Skowronek, Building A New American State: The Expansion of National Administrative Capacities, 1877-1920 (New York: Cambridge University Press, 1982).

[33] Andrew W. Mellon, Taxation: The People's Business (New York: The Macmillan Company, 1924), pp. 12, 72.

[34] Ira Sharkansky, The Politics of Taxing and Spending (Indianapolis: Bobbs-Merrill, 1969), p. 174.

[35] Angus Maddison, Dynamic Forces in Capitalist Development (New York: Oxford University Press, 1991), pp. 50-53.

[36] "During these twenty years, the loss of goods and services produced by the economy as a result of the 1 percent a year reduction in the growth rate has amounted to roughly $12 trillion (in 1987 dollars). . . . As for the federal budget deficit, not only would it have disappeared entirely had the country grown at its historic rate, but by the early 1990s the U.S. would have run a substantial budget surplus. This would have happened because, with no change in tax rates, tax revenues would have been about $2.5 trillion higher as personal income rose, and we would have avoided over half of the more than $4 trillion in federal debt we currently have." Jeff Madrick, "The End Of Affluence," The New York Review of Books (September 21, 1995), p. 13.

[37] For a more thorough discussion of this theme, see Sheldon D. Pollack, "New Dynamics of Tax Policy?" 12 American J'l of Tax Policy 61 (Spring 1995).

[38] The theory of critical elections was developed by Walter Dean Burnham in Critical Elections and the Mainsprings of American Politics (New York: W.W. Norton & Company, 1970); see also William Nisbet Chambers and Walter Dean Burnham (eds.), The American Party Systems: Stages of Political Development (New York: Oxford University Press, 1967), especially the essays by Burnham and Theodore J. Lowi. A considerable literature since the late 1970s follows Burnham's suggestion that the weakening of the party system itself makes another critical realignment impossible.

[39] See, e.g., Arthur Schlesinger Jr., "Election '94: Not Realignment but Dealignment," The Wall Street Journal, November 16, 1994, p. A28.