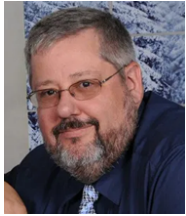


How the 16th Amendment Destroyed the Republic



By Paul Engel

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- Nobody likes paying taxes, but where did the federal income start?
- The Sixteenth Amendment did not create the federal income tax.
- However, the 16th Amendment did fundamentally change the republic.

As April 15th approaches and people spend valuable time and money on filing their income tax returns, I think it worth our time to look at the source of our pain. While plenty of people grouse and complain about paying income taxes, most don't realize that the cause of their pain is the actions of the states back in 1913. When the states ratified the Sixteenth Amendment they did more than just help the feds collect income taxes, they fundamentally changed the republic for the worse.

Nobody I know likes paying taxes. They are a necessary evil if we are to have a stable society. So the most common questions debated are who pays taxes and how much? The more important decision is who decides those questions?

Collecting Taxes

In 1787, when the Constitution was drafted and ratified, the framers of this country understood the need to collect taxes. So they delegated the power to tax to Congress, but with some very specific restrictions.

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

[U.S. Constitution, Article I, Section 8](#), Clause 1

Yes, Congress can collect taxes. Duties, imposts, and excises are simply different types of taxes that Congress can collect. Notice however, there are only three things Congress can collect taxes for:

- To pay the Debts of the United States.
- For the common Defense of the United States.
- And for the general Welfare of the United States.

Notice also that Congress can only collect taxes to be used for the United States, capital “U”, capital “S”, a proper noun for the entity known as the United States. This is the very same proper noun used in the Tenth Amendment to say:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[U.S. Constitution, Amendment X](#)

Here we see our first problem. We the People have not held Congress to collecting taxes only for constitutionally authorized purposes. As Alexis DeTocqueville said:

“The American Republic will endure until the day Congress discovers that it can bribe the public with the public’s money”

Alexis DeTocqueville

Congress has discovered how to bribe the public, and oh, how they have used it. However, for the first century or so, there

was a serious impediment to Congress' ability to overtax the people: The Constitution.

Direct Taxes

When the House of Representatives was established in Article I, Section 2, an important little phrase was included.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers,

[U.S. Constitution, Article I, Section 2](#), Clause 3

Not only were the seats in the House to be apportioned to the states by population, but so were direct taxes.

A direct tax is usually a property tax or ad valorem [by value] tax, as opposed to an indirect tax imposed upon some right or privilege, such as a franchise tax.

[Direct Tax – The Free Legal Dictionary](#)

It's not that Congress couldn't impose any direct taxes, only that they had to apportion those taxes to the states. If Congress were to pass a tax on the value of your property, your estate, or even your income, they had to divide the tax up amongst the states based on their population, and have the states collect it. As we will see, this is extremely important, since it places the states between the people and the United States government.

The Income Tax

The income tax didn't start with the 16th amendment; it started in 1862 to fund the Civil War. Since it was a consistent revenue stream, the income tax was sold to the people with a warning that it was necessary, the promise that it would be limited by a person's income, and was scheduled to expire in 1870. However, that did not make it constitutional.

Most likely due to the urgencies of the war though, this tax was never challenged in court.

Then, in 1894, Republican Senator John Sherman argued that the income tax should become permanent, the consumption taxes of the day were not “fair”, and that the burden of this tax should be borne by the wealthy rather than by everyone. Sound familiar? The Revenue Act or Wilson-Gorman Tariff of 1894, instituted a 2% tax on all income over \$4,000 (approximately \$144,000 in 2024 dollars). The supreme Court in 1895 found this tax to be unconstitutional in the case Pollock v. Farmers’ Loan & Trust Company.

The tax imposed by sections 27 to 37, inclusive, of the act of 1894, so far as it falls on the income of real estate, and of personal property, being a direct tax, within the meaning of the constitution, and therefore unconstitutional and void, because not apportioned according to representation, all those sections, constituting one entire scheme of taxation, are necessarily invalid.

Pollock v. Farmers’ Loan & Trust Company, 157 U.S. 429 (1895)

If the 1894 income tax was unconstitutional, does that mean that the 1862 tax was as well? In 1906 and 1908, two prominent members of the republican party voiced their support for an income tax.

[A] graduated income tax of the proper type would be a desirable feature of federal taxation, and it is to be hoped that one may be devised which the Supreme Court will declare constitutional.

Theodore Roosevelt quoted in Seligman, Income Tax: pp.591-592.

Roosevelt believed in a graduated income tax like what we have today. He thought it was a “desirable feature of federal taxation.”

I believe that an income tax, when the protective system of customs and the internal revenue tax shall not furnish enough for governmental needs, can and should be devised which, under the decisions of the Supreme Court, will conform to the Constitution.

William Howard Taft Republican Presidential Nomination acceptance, 1908.

It appears Taft merely saw an income tax as a source of revenue for the federal government, something to supplement the duties and tariffs already imposed. It was not that the federal government was spending too much, but how much can the federal government suck from the people.

Did you notice that both of these men, one President another to be President, seemed to consider little else but the money an income tax would bring into the government's coffers? Did they even consider the impact on society, our economy, or the workforce in general? If so, I have found no evidence to that effect. There was one consideration other than the desire for other people's money that both men expressed: Getting it past the Supreme Court. That would require an amendment to the Constitution.

On July 12, 1909, Congress passed a resolution proposing an amendment to the Constitution of the United States to allow Congress to tax income without apportionment. On February 3, 1913, Delaware became the 36th state to ratify the proposed amendment, making it the Sixteenth Amendment to the Constitution, and forever changing the lives of the American people.

The Sixteenth Amendment

As much as people complain about the income tax, there is a fundamental misunderstanding about the Sixteenth Amendment we need to clear up.

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

[U.S. Constitution, Amendment XVI](#)

The Sixteenth Amendment did not establish the federal income tax. And as we've already seen, federal income taxes pre-date the Sixteenth Amendment. So what did this modification to federal power do that was so damaging? It was the first, and so far only, allowance of the federal government to directly tax the people without apportionment to the states. For the first time in our nation's history, the federal government had an interest in how much money you make and how you spend it. Before the Sixteenth Amendment, unless you were in the military, the only contact you had with the federal government was the post office. Today, the American people spend all year keeping track of how much money they make and how they spend it. Decisions such as buying a house or how to invest their savings is often driven by the deductions on their taxes they would be able to claim. This amendment, and the complex network of laws Congress has created around it, leads millions of Americans to [spend over \\$8 billion a year on tax preparation services](#). Effectively, tax avoidance has surpassed even baseball as our national pastime, all thanks to the Sixteenth Amendment.

The impact of the Sixteenth Amendment goes far beyond time, effort, and money. The most fundamental change has to do with the removal of the states from the collection of federal taxes. Both the 1862 and 1894 income taxes would have been constitutional, if only Congress had apportioned them to the states, rather than collect them directly. The states would have a say in those taxes, wouldn't they? It's a lot easier for the IRS to bully an individual or business to pay what the government wants than it would be for them to bully a state government.

Congress is only allowed to collect taxes to do three things:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States;

[U.S. Constitution, Article I, Section 8](#), Clause 1

States could look at how Congress was using the taxes collected and refuse to collect the unconstitutional excess. The states could also impact how those taxes were collected. Since the American people have the most influence on the government closest to them, you would have more say over the collection of income taxes in your state that you ever will in the federal government. Furthermore, rather than a person or business being expected to defend themselves in an administrative law court, where everyone but the defendant works for the government, your state could defend you in federal court, and if necessary, even with the state militia.

Impact of the Sixteenth Amendment

It may seem incredible to most Americans today, but there was a time when April 15th, and the need to file federal income tax not only did not exist, but was inconceivable. We should not be surprised that the greed displayed today by those in government for more of the American people's money has existed far back in our republic. The words of Senator John Sherman, Theodore Roosevelt, and William Howard Taft are examples of the greed most politicians have for your money. However, the impact of the Sixteenth Amendment goes well beyond the dollars lost.

By bypassing the states in the collection of direct taxes, the United States has further supplanted the states' impact on the people. Where once the states could restrain Congress' greed by refusing to collect taxes for illegal purposes, now the United States can reach right into your pocket to collect their ill-gotten booty.

Since the Sixteenth Amendment allows Congress to collect taxes on income from any source without apportionment, anything a politician can twist into calling income is fair game. For example, your family works for years and generations to build a farm or business, yet according to Congress, when a loved one passes on, that generational wealth is considered income and taxed. Invest in stocks, real estate, or even baseball cards for your retirement or to leave to your children, and when you sell them, Congress only sees an income to tax, taking no consideration how the value of the income has been crippled by inflation from their own policies. This leaves Congress with an almost limitless ability to tax the American people into poverty and servitude.

All the way back in 1894, Senator Sherman argued that a “progressive” income tax was more “fair”. By extension, that said “progressive” income tax can be used to punish success, thereby giving politicians another platform from which to campaign. There’s an old adage: “What you tax you get less of.” Well taxing income has led to less income, and taxing the income of successful people more has led to less success.

Worst of all, the Sixteenth Amendment has destroyed the fundamental structure of the republic our Founding Fathers created. The fundamental property of a republic is:

a state in which the exercise of the sovereign power is lodged in representatives elected by the people

[Republic – Webster’s 1828 Dictionary](#)

Today, the decisions we make about who should represent us seem most impacted by questions of taxation. The constitutional republic created by the Framers saw not only that the power was vested in the people, but that it would remain as close to them as possible. That is why the United States was given limited and enumerated power. When the states ratified the Sixteenth Amendment, they fractured that most

fundamental aspect of self-government in America. They diminished their own power, exposing their citizens to hazard without any redress. By handing to the United States the power to directly tax our income, they removed themselves as a bulwark against an overly powerful and greedy central government. And we should not be surprised that there are those in Washington, D.C. who have seen this power to directly tax us and wish to expand it, through wealth and other taxes. Well did Samuel Adams say:

But if our Trade may be taxed why not our Lands? Why not the Produce of our Lands and every thing we possess or make use of? This we apprehend annihilates our Charter Right to govern and tax ourselves...are we not reduced from the Character of free Subjects to the miserable State of tributary slaves?

Samuel Adams May 15, 1764.

In 1913 our states began the process of reducing us from free citizens to the miserable state of tributary slaves. I hope now you see why I am so in favor of the repeal of this amendment of tyranny we call the Sixteenth Amendment.

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