Research

Temporary Taxes That Never Die: Short Term Levies Have Lived to Hit Taxpayers

SAM BATKINS | JULY 15, 2010

When city officials in the nation's Capitol sought to coax the struggling Montreal Expos to Washington, D.C., a free (taxpayer-funded) stadium was an enticing carrot for a franchise that had literally been playing in a crumbling structure[1]. Instead of letting billionaire owners and millionaire players pay for a new stadium on the shores of the Anacostia River, city officials opted to let beleaguered taxpayers fund the new project.

The luxury stadium's final price tag was $611 million, the most expensive outdoor ballpark at the time[2]. To pay for the new structure, the D.C. City Council enacted a "temporary" gross receipts tax to finance construction[3]. The new levy has been successful at generating revenue, too successful to allow officials to let it expire. Mayor Adrian Fenty and the Council are using this new revenue stream to supplant losses elsewhere in the budget. As D.C. Chamber of Commerce Chief Executive Barbara Lang noted, "We would like to see those bonds paid off earlier to relieve us of that tax. I'm very concerned that it will become part of the city's operating budget."[4]

Sadly for taxpayers, these "temporary" levies serve as politically convenient short-term tools to ease the public backlash from tax hikes. As memories fade, temporary taxes rarely do. The state and local levels are replete with examples of how ephemeral measures lead to permanent revenue streams for elected officials.

The federal government is not immune to this budgetary sleight of hand either. On the national level, there are five major excise taxes that were instituted generations ago that have failed to expire as promised. Together, the gas tax, the telephone excise tax, the tire tax, the sports tax, and the firearms tax have collected more than $1.4 trillion from taxpayers since their inception.[5]

Gasoline Excise Taxes

The federal excise tax on gasoline has been one of the largest "temporary" revenue generators for the federal government. It was originally proposed during the Progressive Era in 1914 (just one year after the start of Model T production).[6] The House Ways and Means Committee recommended a 2-cents-per-gallon tax but the bill failed.[7] The Great Depression and the need for new revenue sources brought the tax back in the Revenue Act of 1932. The act passed, and for the first time in the nation's history, the federal government collected a 1-cent-per-gallon tax on vehicle gasoline[8].

Today, motorists are somewhat familiar with the hidden 18.4-cents-per-gallon tax that generates over $26 billion in annual federal revenue[9]. However, few know that taxpayers are still stuck with the expensive vestiges of a tax that was never intended to be permanent.

The Senate Finance Committee report of May 10, 1933, reads: "Your committee is of the opinion that the gasoline tax should be reserved for the States after June 30, 1934. It would be entirely appropriate, therefore, for this committee, which originated the Federal gasoline tax as a temporary expedient, to recommend its repeal."[10]

The tax generated almost $125 million in its first year (more than half of all excise taxes), or 6.2 percent of total federal receipts[11]. Instead of repealing the tax as suggested, federal officials raised the levy in 1941, and American taxpayers have witnessed a steady increase in the tax rate ever since[12].

Adjusted for inflation, this "temporary tax" has been a tremendous boon to federal coffers; taxpayers have paid more than $1 trillion in federal gasoline taxes since 1933[13]. This figure even excludes state gas taxes, which can reach 46-cents-per-gallon[14].

It is clear that this "temporary" excise tax is going to be a permanent fixture to the Budget for the foreseeable future. Regrettably, with record deficits, taxpayers might be asked to pay more.

Telephone Excise Taxes

The telephone excise tax, like the gas tax, has survived well past its expiration date. Originally enacted in 1898 as a way to fund the Spanish American War, the telephone tax has been enacted and repealed in fits and starts for over a century[15].

The tax was repealed in 1924, but the Revenue Act of 1932 (which contained dozens of new excise taxes) once again made the levy a permanent fixture on the federal ledger[16]. The phone tax was actually scheduled to expire on December 31, 1990 but profligate spending led to a $277 billion budget deficit[17]. The Revenue Reconciliation Act of 1990 permanently extended the tax at a 3 percent rate.

During its inglorious history as a revenue generator for Washington, taxpayers have paid more than $360 billion (inflation adjusted) in telephone excise taxes[18]. The 2010 revenue estimate calls for $879 million in collections, and approximately $2.3 billion over the next five years[19].

Regrettably for taxpayers, the phone tax has continued to collect revenue, even after multiple attempts to sunset the provision. In 2006, in response to several court opinions, the Treasury Department announced an end to the long-distance telephone excise tax[20]. As then-Secretary of Treasury John Snow remarked at the time, "Today is a good day for American taxpayers; it marks the beginning of the end of an outdated, antiquated tax that has survived a century beyond its original purpose, and by now should have been ancient history."[21] The federal government actually issued over $2 billion in phone tax refunds in 2007, but taxes on local telephone service were not part of the government's original refund, so a form of the tax remains[22].

Thus, even after courts and the IRS proclaimed the death of the phone tax, American taxpayers continue to pay millions in levies. The telephone excise tax serves as an apt example for federal legislation: reports of its death have been greatly exaggerated.

Other "Temporary" Excise Taxes

Excise taxes have evolved into a convenient tool for Washington policymakers. Instead of increases in income or payroll taxes, excise taxes are generally hidden from the taxpayers' view, and are appropriate political vehicles for the temp-to-perm tax transition.

The Revenue Act of 1932 enacted a slew of "temporary" excise taxes that persist today[23]. The legislative record is not replete with evidence detailing the temporary nature of these levies, but later budgets are illustrative of Congress' purpose[24].

In the 1936 U.S. Budget, Congress outlined the potential budgetary impact of letting temporary excise taxes expire[25]. "Principal changes in estimated miscellaneous internal revenue receipts in the fiscal year 1936 as compared with the fiscal year 1935, with and without the extension of the temporary taxes, are shown graphically on Chart II and summarized in the following tables…"[26] Later charts read "taxes terminating" and they reveal a litany of temporary measures: taxes on chewing gum, brewers' wort and malt, matches, and toilet preparations, among others[27]. Three excise taxes that were scheduled to expire in 1936 survived: taxes on tires, sporting goods and firearms[28].

The IRS and the Office of Management and Budget have limited data on these three levies. However, more recent figures are available. The tire, sporting goods, and firearms tax all fall under the umbrella of manufacturers' excise taxes. Initial 1933 collections for these measures were modest, approximately $60.3 million in 2010 dollars[29].

The firearms tax, which includes shells and cartridges, has cost taxpayers more than $2.8 billion (inflation adjusted) since its inception[30]. The levy, like many other manufacturers' excise taxes, was scheduled to expire in 1936, but the Depression-era Congress continued the measure.

The tax on sporting goods initially included cameras and lenses, but it is now limited to bows, arrows, and sport fishing equipment[31]. Total federal receipts from this excise tax exceed $1.6 billion in inflation adjusted dollars[32].

Finally, the Revenue Act also instituted an excise tax on tires and "inner tubes."[33] Congress continued to collect the tax and Americans have paid more than $3.8 billion (inflation adjusted) since the life of the levy[34].

Conclusion

On the federal, state, and local level, there are likely hundreds of temporary taxes that still draw money from taxpayers. Politicians realize it is easy to hide these levies from the gaze of price conscious taxpayers. (Excise taxes, for example, are easily hidden in the total price of a product.) It is far more palatable for officials to sell short-term budget pain than it is a permanent fiscal burden. In addition, when revenues from these taxes exceed initial forecasts, many legislatures insist on keeping the money in an effort to maintain budget stability. City officials in Washington, D.C. have learned this lesson well.

The 1936 Congress was another example. Instead of letting two dozen "temporary" taxes expire as scheduled, Congress cited the $2.6 billion deficit as a reason for keeping the expiring excise taxes[35]. After 74 years, today's taxpayers continue to pay the price for the fiscal mismanagement of the past. What is clear from our nation's fiscal history is that temporary taxes continue to survive, and even thrive amidst Washington's current budget battles.

End Notes:

1. Big O Roof Raises Safety Concerns, CBC NEWS, June 10, 2010, http://www.cbc.ca/canada/montreal/story/2010/06/10/mtl-olympic-stadium-roof-safety.html (last visited July 6, 2010).

2. Bill Myers, Ballpark Tax May be Here to Stay, WASH. EXAMINER, June 1, 2010, http://www.washingtonexaminer.com/local/The-ballpark-tax-that-came-to-stay-95268049.html#ixzz0pc9lJXaC (last visited July 6, 2010).
3. Id.
4. Id.
5. Brian Francis, Gasoline Excise Taxes, 1933-2000, STAT. OF INCOME BULL., Winter 2000-2001, at 140, available at www.irs.gov/pub/irs-soi/00gastax.pdf [hereinafter FRANCIS 2000]; Louis Alan Talley, CRS Report for Congress: Telephone Excise Tax (2002), available at www.policyarchive.org/handle/10207/bitstreams/3266.pdf [hereinafter TALLEY 2002].
6. FRANCIS 2000, supra note 5 at 140; Ford Motor Company, The Model T Put the World on Wheels, http://www.ford.com/about-ford/heritage/vehicles/modelt/672-model-t (last visited July 6, 2010).
7. FRANCIS 2000, supra note 5 at 140.
8. Id.
9. I.R.S. STAT. OF INCOME BULL. Table 20, Federal Excise Taxes Reported to or Collected by the Internal Revenue Service, Alcohol and Tobacco Tax and Trade Bureau, and Customs Service, by Type of Excise Tax, Fiscal Years 1999-2008, available at www.irs.gov/pub/irs-soi/histab20.xls.
10. FRANCIS 2000, supra note 5 at 140.
11. Id.; Office of Mgmt. and Budget, Historical Tables, Table 1.1—Summary of Receipts, Outlays, and Surpluses or Deficits (-): 1789-2015, available at www.whitehouse.gov/omb/budget/fy2011/assets/hist01z1.xls [hereinafter TABLE 1.1].
12. Id.
13. The author's calculation is based on the aggregate total of federal gasoline taxes collected since 1933, adjusted for 2010 dollars.
14. Tax Foundation, State Sales, Gasoline, Cigarette, and Alcohol Tax Rates by State, 2000-2010, available at http://www.taxfoundation.org/publications/show/245.html.
15. TALLEY 2002, supra note 5.
16. Id.
17. Id.; TABLE 1.1, supra note 11.
18. The author's calculation is based on the aggregate total of federal telephone taxes collected since 1898, adjusted for 2010 dollars.
19. Office of Mgmt. and Budget, Historical Tables, Table 2.4—Composition of Social Insurance and Retirement Receipts and of Excise Taxes: 1940-2015, available at www.whitehouse.gov/omb/budget/fy2011/assets/hist02z4.xls [hereinafter TABLE 2.4].
20. Press Release, U.S. TREASURY DEP'T, Treasury Announces End to Long-Distance Telephone Excise Tax, May 25, 2006, available at http://www.treas.gov/press/releases/js4287.htm.
21. Id.
22. TABLE 2.4, supra note 19.
23. FRANCIS 2000, supra note 5 at 140.
24. Franklin Delano Roosevelt, The Budget of the United States Government for the Fiscal Year Ending June 30, 1936, H.R. Doc. No. 34, at A32 (1935) [hereinafter 1936 BUDGET].
25. Id.
26. Id.

27. Id.
28. FRANCIS 2000, supra note 5 at 140.
29. Id.
30. The author's calculation is based on the aggregate firearm tax collections, adjusted for 2010 dollars.
31. FRANCIS 2000, supra note 5 at 140.
32. The author's calculation is based on the aggregate sporting goods tax collections, adjusted for 2010 dollars.
33. 1936 BUDGET, supra note 24, at A32.
34. The author's calculation is based on the aggregate tire tax collections, adjusted for 2010 dollars.
35. 1936 BUDGET, supra note 24, at A32.