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ON THE CLASSIFICATION OF TAXES

PROFESSOR BRAUER'S NEW CLASSIFICATION AND MY OWN

FOREWORD

There are various methods of classifying taxes. Many scholars have advanced various theories for the classification of taxes into two main divisions, direct and indirect, but none of them are perfect, each having defects of one sort or another. So difficult indeed is the task that some scholars hold that it is better not to distinguish between the direct and the indirect taxes. Of various classifications, the French view, which regards a direct tax as a register tax (Katastersteuer) and an indirect tax as a tariff tax (Tarifsteuer), is serviceable in formulating the tax system of a country.

Some criticism, of course, may be made of this view also, but on the whole it may be regarded as a satisfactory basis for the tax classification. The classification of such social phenomena as taxes cannot be final or absolutely static, as they are constantly undergoing historical changes, and differ with the place. Different countries have different tax

items at different times. Within an individual nation itself, new taxes are created from time to time, while the meaning of one and the same tax may also undergo alteration. In consequence, the classification of taxes should also be changed as occasions demand. We need not therefore adhere to the old classification; we shall have to estimate it once in a while.

I have always been sceptical of the value of the prevailing classification of direct and indirect taxes, and have felt the necessity of improving it in some way, and the recent announcement^{*)} by Professor Bräuer of Germany of his new classification of taxes has offered me an excellent opportunity to make a further study into the problem under consideration. His classification has both merits and demerits and they have prompted me to formulate my own classification. To casual observers such a classification may appear to be a sort of intellectual gymnastics, but as it will clarify the nature of taxes and prove useful in practical legislation, I have undertaken to set it forth below.

I. PROFESSOR BRÄUER'S CLASSIFICATION

- (1). Bräuer's Classification itself.
- I. Steuern auf Einkommen und Vermögen.
 - A. Einkommensteuern.
 - (1). Teil-Einkommensteuern.
 - (2). Gesamt-Einkommensteuern.
 - a. Allgemeine Einkommensteuer; Körperschaftsteuer.
 - b. Ertrags-Einkommensteuer.
 - B. Vermögensteuern.
 - (1). Vermögens-Ertrag-Steuern.
 - a. als Hauptsteuer, an Stelle der allgemeinen Einkommensteuer.

^{*)} Bräuer, Versuch einer Neugruppierung der Steuerformen. (Festgabe für G. von Schanz, II.)

- b. als Ergänzungsteuer, neben bestehender Einkommensteuer zwecks Höherbelastung fundierter Bezüge.
- (2). Vermögens-Substanz-Steuern.
 - a. ordentliche: Nachlasssteuer.
 - b. ausserordentliche: Wehrbeitrag, Vermögensabgabe, Zwangsanleihe.
- C. Zuwachssteuern.
 - (1). Steuern auf den Einkommens-Zuwachs: Kriegsgewinnsteuer und Excess profits tax.
 - (2). Steuern auf den Vermögens-Zuwachs.
 - a. unter Lebenden:
Kriegsgewinnsteuer, Reichs-Besitzsteuer, Grundstücksgewinn-Steuer, Lotteriegewinn-Steuer.
 - b. von Todes wegen: Erbanfallsteuer.
- II. Steuern auf Güter und Leistungen.
 - D. Aufwandsteuern.
 - (1). Verbrauchsteuern und Zölle.
 - a. Umsatzsteuern.
 - b. Produktions-und Vertriebssteuern.
 - i. innere Verbrauchsteuern.
 - ii. Monopolsteuern.
 - c. Zölle.
 - (2). Aufwandsteuern in engeren Sinn.
 - a. direkte oder Luxus-Besitzsteuern.
 - b. indirekte oder Luxus-Verbrauchsteuern.
 - c. Luxussteuern anderer Art.
 - E. Vermögensverkehrsteuern.
 - (1). Steuern auf den Eigentumswechsel.
 - (2). Steuern auf den Zahlungs-und Kreditverkehr.
 - (3). Steuern auf den Kapitalverkehr.
 - F. Transportsteuern.
 - (1). Fahrkartensteuer.
 - (2). Güterverkehrssteuer.
 - (3). Frachtkundensteuer.
- (2). My Criticism of Bräuer's Classification.

(A). Its merits.

(a). The classification is made according to the important differences in tax objects. In the first place, the base of classification should be that which can be clearly distinguished; and at the same time it is desirable that such a base should possess its inherent importance. The base adopted by Bräuer meets this primary requirement to a certain extent: he adopts the classification base which consists of the division of tax objects into income and property on the one hand, and goods and performance (*Leistungen*) on the other.

(b). His classification also indicates the important difference in tax bases. In other words, whereas taxes on income and on property are derived by taking tax bases which are expressed in monetary units of the tax objects, those on goods and performance take as bases their very nature: namely, their quantities, sizes, weights, qualities, prices, etc. Thus, the two sets of taxes have their respective characteristics. This is also a supplementary merit of his classification. He includes the following taxes among the income and property taxes: the excess profits tax, the land increment value duty, the property increment duty, because he thinks that such taxes conform to the division of taxes into the two sets of taxes given above.

(c). His classification conforms to the contemporary interpretation regarding the proper position of the inheritance tax in taxation. The problem of the proper place and department of the inheritance tax which occupies a special position among the transaction and increment taxes is a difficult one. Bräuer's classification conforms to the conception of the present age as it regards the inheritance tax as a tax on property and includes the estate duty in the property substance tax and the succession duty in the property increment value tax. Formerly, the inheritance tax used to be regarded as a tax levied at low rates at the time of the shifting of property, but at present its rates have been steadily raised, thereby strengthening the notion that

it is a tax on property itself. This is especially so in a country having no property tax. Bräuer's classification is in harmony with this conception.

(d). It also accords proper places to other increment value taxes. The nature of such taxes as the property increment value tax and the excess profits tax is akin to that of taxes on income and property, and this fact is taken into consideration by Professor Bräuer in his classification.

(B). Its defects.

(a). The differences in the tax objects on which his classification is based are not quite clear. This is its first shortcoming. Although Professor Bräuer regards property or income and goods as distinct things, in reality they are not so; both property and income after all are aggregates of goods. In consequence, one may call the property tax a tax on goods. Or, it may also be said that property tax is not a tax on individual goods but on the aggregate of all of one's goods. However, the property taxes include the partial property tax which is levied on single items of goods; and while there is a tax called the general property tax which is levied on the aggregate of all of one's goods, it often happens that a taxpayer's whole property is made up of single items of goods, in which case the general property tax is actually levied on such single items of goods. Thus, it becomes impossible to differentiate the tax on property from the tax on goods. The same thing can be said of the income tax. Income may be defined as the aggregate of goods, but it may happen in connection with both the partial income tax and the general income tax, more often in the former, that one's income may be constituted of single items of goods. Thus, it is also difficult to distinguish the tax on income from the tax on goods.

(b). There is no clear distinction among tax bases. Professor Bräuer claims that his system has the usefulness of clarifying the distinctions of tax bases. True, he can distinguish the base of a monetary sum given in monetary units in the so-called income and property taxes on the one

hand, and the number, weights, sizes, qualities, etc. of goods or performance in the case of the duties on goods and performance, on the other. But it is impossible clearly to distinguish between the monetary base in the former and the price base in the latter; both are *ad valorem*. Price is a monetary sum and the monetary sum is made up of the price of goods or performance. In the case of the property and inheritance taxes, in particular, the monetary sum which is their tax base, is nothing other than the aggregate of the prices of individual object or individual goods. It is impossible to say that they are different from the prices of the goods which are the tax objects of, say, the textile consumption tax or the registration tax on immovables.

(c). There are cases in which the inheritance tax is not a tax on property. It is consonant with the modern conception to treat the inheritance tax as a tax on property; but if its rate is so light that it can be paid out of the revenue from property in some rational economy, then it should be regarded as a varying form of the income tax, and as nothing more than a particular method of taxing income. Even supposing the estate duty (one form of the inheritance tax) to be a tax on property, it is not necessarily the property substance tax of Professor Bräuer: it may be what he calls by the name of the property products tax, or what is commonly known as the nominal property tax. Thus, there are cases in which it may be regarded as a special form of duty on income. Professor Bräuer treats the succession duty as a property tax. But, for those who accept the views of Schanz regarding income, that which is derived through inheritance may be regarded as an income. Income is no other than an increment in men's property; and there is no need of placing the income tax and the property increment value tax in different categories. The matter would be quite different if the inheritance tax is regarded as fundamentally different from both the income and the property taxes; but if it be placed in the same category with these two taxes, it seems proper that the suc-

cession duty should be regarded as a tax on income rather than on property.

(d). The tax objects of the inheritance and of other taxes in which the increment value of income or property are taxed, are regarded as the changing of value of income or property—or rather as the changing of all such values—rather than income or property itself.

Although the tax objects of the income and property taxes are clearly income and property, those of the inheritance tax should be regarded as the changing conditions in the value of property rather than as income and property themselves. One may say that the other duties on the increment values of income and property are akin to the income and the property taxes, but then similarly one may also say that the ordinary property transaction taxes, (for example, the registration tax and the stamp duty) are akin to the property tax. But one cannot logically place the former (the duties on the increment values of income and of property) in the same department as both income and property and exclude from the same department the latter (the ordinary property transaction taxes.)

II. MY OWN CLASSIFICATION

(1). Having received a hint from Professor Bräuer's plan, I have come to classify taxes into the following two groups ;

- i. Static taxes.
- ii. Dynamic taxes.

Whereas the former has the static condition of income or property as the tax object, the latter has the dynamical condition of income and property as the tax object. In the perfect tax system I would regard the former as the primary taxes and the latter as the secondary. Of the former taxes, the general income tax becomes the chief tax, while the products tax, or the property tax, or the partial income tax becomes a supplementary tax. The latter taxes include the

transaction and increment taxes and the consumption taxes. The latter are to be taken in their broad sense and therefore include the tax on use. The former likewise and include, besides the ordinary transaction tax, such taxes as the inheritance tax, the war profit tax, the excess profit tax, the property increment value tax, the land increment value tax, etc.

(2). Its explanation, merits and defects.

(A). Its merits.

(a). My scheme makes possible a clear, definite classification of all taxes and duties. Any classification must include all that should come under each department within that classification. But Bräuer's division into income and property on the one hand, and goods and performance on the other, cannot do this, as has already been pointed out. But my scheme of classifying all taxes into the two main departments, one static and the other dynamic, enables all taxes and duties to be included in either of these two departments.

The income tax is levied on a man's income or each man's purely incremental value during a certain period of time (usually one year) and taken at a certain time-point: in other words, it is levied on the income in its statical condition.

The products tax is similarly levied as a substitute for the partial income tax, on the source of income as the products that are made during a certain period of time and taken at a certain time-point; thus it is levied on the products in their statical condition.

The property tax also is levied on property at a certain time-point in its statical condition.

On the other hand, consumption taxes are levied on incomes in the dynamical condition of their expenditure or use. The transaction and increment taxes are levied by taking the transfer or changing of values, or in the dynamical conditions of income or property. The succession duty is levied on some property in their dynamical condition or

during the shifting from one person to another, while the estate duty is also levied on estates in their dynamical condition. The land increment value tax and the property increment value tax are taxes which are based upon the changing values of property; while the excess profit tax is levied on income in its dynamical condition.

(b). This classification makes use of an important element in the object as the basis of classification. It is desirable in any classification that an important element should be used as the basis and my scheme adopts income and property, that is the tax source which is the important matter regarding to tax, as its bases, and thus I have succeeded in attaining my purpose.

(c). My classification conforms to the actual circumstances. It has the merit of practicability in addition to its academic value. The value of a classification would be small if it failed to conform to reality, even though it may possess academic importance. It is highly desirable that a classification of such things as taxes should conform to the actual facts in a nation's tax administration.

Now, it is undeniable that among the principal modern nations the taxes on income, products and property—all of which are levied on the statical conditions of income and property—are their primary and fundamental taxes and form the bases of their tax systems. Equity in taxation to a certain extent is sought by means of these taxes; and such taxes as the transaction and consumption taxes, when viewed from the standpoint of justice in taxation, are not regarded as the equals of the former. They are rather regarded as secondary and supplementary taxes; as those which have been contrived because of some practical necessity.

Some nations include the inheritance tax in the department of primary taxes and there are scholars who attach much importance to it. But such a view is obviously too greatly exaggerated. At least in our own country, the inheritance tax cannot be regarded as a basic tax. Even supposing that the countries attaching importance to this parti-

cular tax should increase in number, it is highly doubtful even then whether such a treatment of that tax is desirable. The inheritance tax is not levied regularly as in the case of the income tax or the property tax; it is levied occasionally at the time of inheritance. Consequently, it may occur several times during a comparatively short space of time in some cases, while it may not occur at all through a lengthy space of time in other cases, although in every case the value of the property or its income may be the same. Therefore, there is a great possibility of injustice in such taxation. Moreover, the amount of revenue from this source may vary greatly in different years and thus will cause inconvenience to the budgetary estimate of the tax revenue.

Usually the revenue from this source is not a large portion of the state revenue, and in consequence it is clear that this tax should not be treated as a primary tax; it should be rather included in the section of secondary taxes. In the actual administration of taxes too, it is usually treated as a secondary tax as in my classification.

(d). My classification is not only in conformity with the prevailing classification of the register and tariff taxes, but it is a better system. It corresponds to these two taxes which are based on the classification of direct and indirect taxes. The static tax corresponds to the register tax; and the dynamic tax, to the tariff tax. Under the prevailing classification, all consumption taxes which are secondary taxes are not included in the same department. The direct consumption tax or the tax on use is regarded as a register tax; and the indirect consumption tax as a tariff tax. According to my classification, both can be treated as dynamic taxes.

Under the prevailing classification, the tax on sake or spirituous liquor is ordinarily regarded as an indirect consumption tax and therefore should be treated as a tariff tax. But, when viewed from the technique of taxation, it can also be regarded as a register tax: and in consequence it will be in the same department as the income tax or the

property tax; this obviously is highly unjustifiable. But under my own system, this tax is clearly a dynamic tax and can be treated separately from the income and property taxes.

(e). The treatment of the general income tax (one of the primary taxes) as the principal tax and other taxes such as the products tax, the property tax, the partial income tax, as supplementary taxes, is in harmony with the practical administration of taxes in some countries as well as with the inherent nature of the matter itself.

(B). Its defects.

As I have explained, my classification has merits which I have tried to indicate; but I am fully aware that it has defects and these I shall take pains here to point out.

(a). My classification is not based on the similarities of tax bases. But this defect is not so serious when the fact is remembered that it is based upon the tax object which is the primary element of taxation and also on the different conditions of tax sources which are also highly important in taxation.

(b). The inheritance tax is separated from the income tax and the property tax, although the present tendency is to regard it more and more as a tax on property.

This defect is somewhat regrettable, to be sure. However, it has not yet assumed any definite form, especially in this country. It may be regarded rather as a method of taxing income. It need not be treated the same as the income tax or property tax, just as there is no need of treating the consumption tax (which is a method of reaching income) and the numerous transaction taxes (which are a method of reaching either income or property) the same as the income tax or the property tax.

(c). The main division of my classification may be said to be analogous to the old division of the register and tariff taxes.

True, this main division corresponds to the division between the register and tariff taxes, and one may

therefore say that my classification is new only in name. But it has given a new meaning to the old division and thereby made an improvement over the old classification, so that the division of taxes may be made more adequately than before. Lastly, it conforms to the facts in actual practice of taxation.

CONCLUSION

The classification of taxes has been one of the most difficult tasks for the student of taxation and although numerous attempts have been made, no one seems to have attained complete success. Endeavours have been made with a view to classifying all taxes into direct and indirect taxes, but the result in every instance has been failure. Professor Bräuer has recently made public his scheme which has more defects than merits, as I have pointed out above. I think I have made some improvement upon his classification and grouped all taxes into static and dynamic taxes, the former having as tax object the statical condition of income or property, and the latter, the dynamical condition of the same. Although my scheme has some defects, it has a new significance and is of some value to the science of taxation inasmuch as it adopts as the basis of classification the important difference in tax objects; makes possible a clear grouping and sub-grouping; conforms to facts in the actual administration of taxation; and implements the prevailing classification, and thereby removes the defects bound up with it.

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