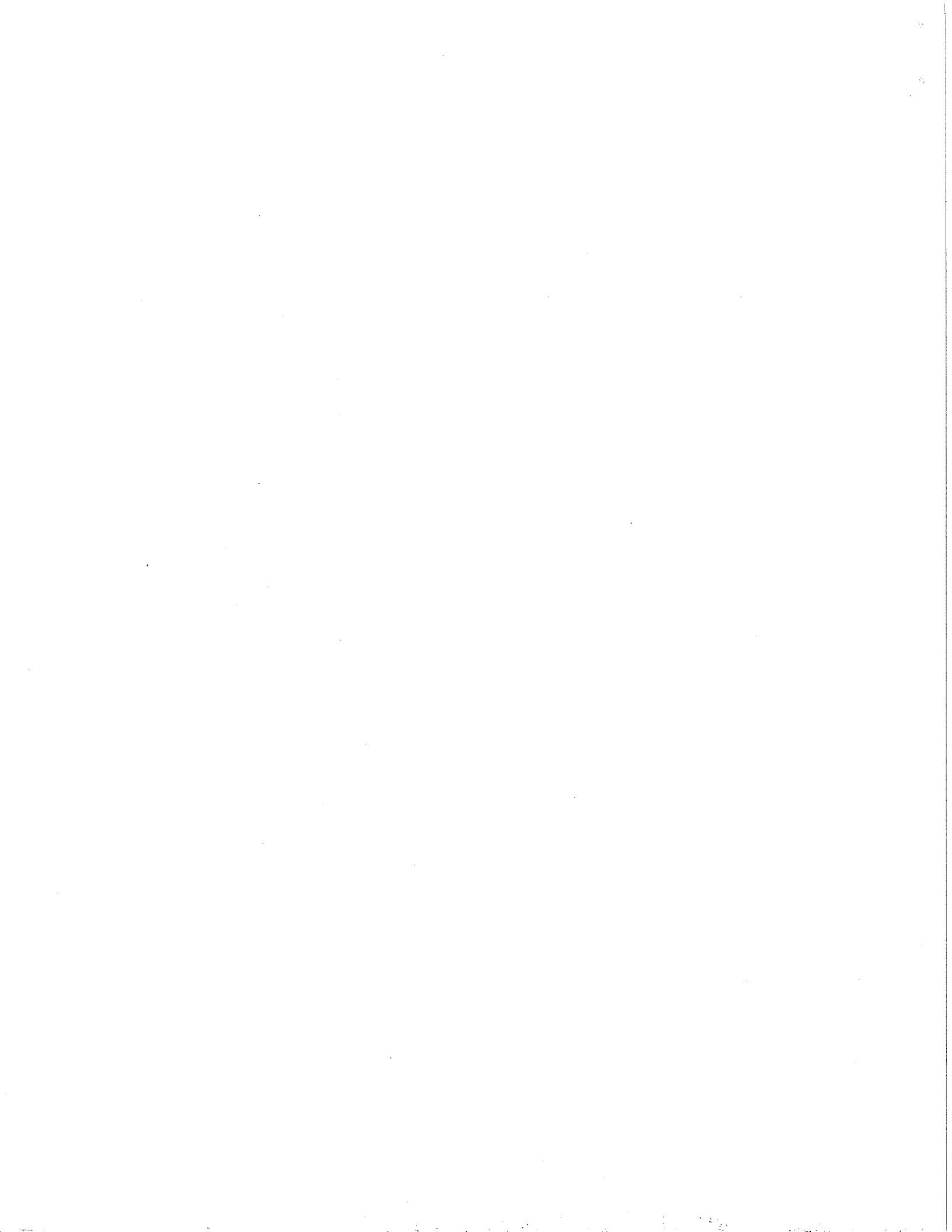


**INCOME TAX
COMPLIANCE**

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On the Office of Taxpayer and the Social Process of Taxpaying

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I. Public Duties and American Political Ideology

Defense of liberty is the core of the American political creed. A crucial part of the creed is that individual citizens should not take too great an interest in, or expect too much from, their fellows. Since one man's scrutiny and expectations become another man's implied obligation, minding one's own business in the pursuit of liberty becomes a virtue. Gossips, nosey-parkers, and tattle-tales are objects of scorn.

For similar reasons, moralism is suspect. Those who urge their fellows to embrace a moral cause threaten individual liberty by insisting on the general claims of their views. For many, moralism is also suspect because it is based on a utopian (therefore unreliable) view of human nature. Since free men and women are guided reliably only by their own interests, it is a dangerous delusion to rely on moral sentiment in structuring social interaction. Besides, it is less oppressive to be motivated to do things by a structure of rewards and penalties than to be compelled by moral obligations. Thus, the dominant American view is that collective enterprise should be structured to manipulate interests, not promote obligations.

Government, too, is deeply mistrusted. To restrain its awesome capacity to attack individual liberty, its powers must be dissipated by spreading them among independent institutions and checked by the establishment of iron-clad individual rights. What is left to the government is the imposition of limited, grudgingly tolerated duties. Only occasionally is government seen as a suitable vehicle for the expression of individual and community values. And when it appears in this guise it is

treated with even greater suspicion, for the gravest threat to freedom is government animated by moralism. Along that path lies fascism and totalitarianism.

This political ideology has worked extremely well. It, and the institutions it has spawned, have guaranteed freedom and built prosperity to a degree unmatched in human history. But there is a problem at its core. It leaves unanswered the crucial question of how a society founded on this ideology can accomplish its public purposes. This includes most prominently the question of how individuals in the society can be motivated to accept material sacrifices for the common good. If citizens are free and entitled to their property, and their only social obligation is to defend their interests, how can they be motivated to contribute to public enterprises?

What helped America accomplish its public purposes in the past were the ideologies and institutions which were privately established and operated without the formal power of the state but were nonetheless public in outlook.¹ Patriotism and civic responsibility were the ideologies. Families, civic groups, schools, churches, and maybe even political leaders were the agents that fostered public-regarding attitudes. The felt obligation to shoulder public duties voluntarily constituted an extremely valuable social resource. It provided a motive for contributing one's own effort to public purposes, as well as a justification for occasional sacrifices made for others. The desire both to contribute and to "go along" in public enterprises created a social capacity for action that would not have been available if citizens had been wholly "private-regarding."

Unfortunately, the fragile private commitment to public purposes has been shaken badly over the last few decades. "Flag waving" and "boosterism" have been mocked for their irrelevance, ridiculed for their rituals, accused of hypocrisy in that they have advanced the interests of a few in the name of community, and viewed as agents of hegemony against individual liberation. The effect has been to remove these values far from the center of social life. In their place we have established economic and governmental institutions that more nearly approximate our public ideology. These institutions are formally structured to assure equity and due process, organized to make the achievement of collective purposes a matter of individual interest, and purged of moral content. Even our most public institutions are now run by appeals to material self-interest. Young men and women are urged to join the military because "it's a good place to start"; schooling is justified as an investment in "human capital"; and communities are compensated for accepting public "bads," such as toxic waste facilities and prisons, into their midst.²

I repeat these familiar observations not simply to join the chorus now bemoaning the decline in American morale but also because I think this analysis of our political ideology and the decline of privately

fostered public-spiritedness help to explain why ordinary citizens are increasingly reluctant to pay their taxes, what government might do to reverse this trend, and why many people are likely to look askance at plausible policy approaches to tax evasion. My basic thesis is that as long as we view taxpaying as an onerous duty imposed on reluctant citizens who owe nothing to the state beyond the narrowest interpretation of their legal obligations, and as long as we consider the collection of taxes a private matter between the state and the individual (a perspective and a policy that are squarely in line with our dominant political ideology), the "tax gap" will continue to grow.

The alternative is to view taxpaying as an opportunity to share in a collective view of what our communities should be, to invest it with significant moral content, and to open up the process of taxpaying to wider public scrutiny—in short, to reestablish taxpaying as a normative social process rather than a neutral private encounter between the state and the individual. To move in this direction, however, would be to bring policy on tax compliance into direct conflict with our political ideology. It would require the government to encourage conduct which that ideology explicitly discourages: specifically, that citizens should take an interest in the public conduct of others and think in moral terms, and that the government itself should speak in terms of obligations and shared purposes.

Practical objections to this line of argument come quickly to mind. To some, the proposal will seem absurd because it is hopelessly utopian. People do not look to their fellows for approval or respond to moral appeals; they look only to their own interests. But even if they did respond to such normative concerns, it is impossible for the government to kindle them. In short, the proposed instrument for promoting tax compliance is too weak for the job. To others, the proposal will seem wrong-headed for precisely the opposite reasons. It licenses the government to play with extremely powerful and potentially uncontrollable forces. If moral feelings are tapped, if citizens are encouraged to take a greater interest in the actions of their fellows, and if all this is tied to government-sponsored purposes, a grave threat to liberty will be created.

The fact that these objections are patently contradictory, but still commonplace, indicates the role that ideology (rather than reason or fact) has in shaping these views. We simply do not look seriously at the possible efficacy of these instruments because our ideology gives us the answer before we start. But it may be that if we looked seriously at the notion that government could mobilize citizens to respond to public duties without leading us into fascism, we might resolve the contradiction and learn something about making taxpaying a normative social process.

At any rate, my purpose is to encourage us to think seriously about the problem by staking out a radical position—specifically, that reestablishing voluntary compliance as a normative social process is not

only a feasible and effective approach to reducing the tax gap, but probably the only approach.

I will begin by analyzing the nature of the tax gap in ways that emphasize the normative explanations for its growth and the features that make it resistant to anything other than the reconstruction of powerful social norms. I will then briefly discuss individual motivation, giving special attention to what Wilson calls "purposive" and "solidary" incentives in shaping private conduct.³ The argument will be that people are motivated to have, maintain, and operate creditably in, "offices" or positions of larger enterprises as well as to achieve individual material objectives, and that a structure of "social offices" with rights, responsibilities, and statuses creates a means of motivating private individuals to act together to accomplish public purposes. I then examine some concrete steps the government could take to reestablish taxpaying as an honorable social activity. Throughout, my points will be exaggerated for the sake of argument.

II. The Tax Gap

By most accounts, the tax gap is increasing.⁴ But estimates of the amount of tax evasion are quite uncertain, and given the current political interest in increasing revenues without raising taxes, it would be natural to focus greater attention on the problems of tax administration. Hence, one is entitled to look at assertions that tax noncompliance is increasing with a healthy degree of skepticism.

Moreover, even if the level of noncompliance (measured in terms of the dollar value of uncollected tax liabilities) is increasing, one could plausibly account for that growth in many ways. Inflation alone could have major effects. Even if taxpayer compliance remained constant, in terms of the proportion of liabilities paid, inflation would cause the measured size of the tax gap to grow. In addition, inflation propels taxpayers into higher income brackets that allow them to make use of such things as itemized deductions and tax-deferred savings plans. This creates more room not only for cheating but also for errors arising from negligence, incompetence, or ignorance. So, even if the motivation to meet tax liabilities remained constant, one might expect the measured level of noncompliance to increase.

Despite these observations, however, there is a widespread sense that the motivation of citizens to pay their taxes has decreased. This view is fueled by studies of the tax gap and the underground economy, but it is also supported by more direct evidence on the attitudes of taxpayers. For many of us, simple introspection reveals an increased reluctance to pay taxes and an increased motivation to get tax advice that will save us money when we file our returns. In addition, when we discuss taxes with our colleagues, we find them talking about minimizing their tax liabilities by taking advantage of loopholes. In

Massachusetts, California, and elsewhere, we have seen voter approval for referendum questions setting statutory limits on tax rates.

None of this, of course, constitutes clear evidence of an increased willingness among taxpayers to violate the tax laws. To minimize one's tax obligations is prudential — even virtuous — in a polity that asks nothing more of people than that they advance their self-interest within a structure of laws defining minimal public obligations.

But sociologists have found that the norms that guide social behavior by defining what is ordinary and virtuous have an interesting property: while they define and determine the central tendency of a population's behavior, they cannot wholly eliminate variability. There is always a distribution of nonconforming behavior around that central tendency.⁵ Part of this distribution includes a nonconforming "tail" that has as *its* "tail" truly deviant—even criminal—conduct. Even more interestingly, it seems that when the norm shifts to embrace behavior that was once considered slightly deviant, the tail of the distribution also moves in the same direction. Indeed, for some shapes of this distribution, the mathematics reveal that a small shift in average behavior sometimes results in much larger proportional shifts in the tail.⁶ In other words, as the norm moves in a more deviant direction, the number of seriously deviant people in the tail (as measured against the new norm) increases even faster.

This effect has been observed with respect to drinking, obeying traffic laws, and genuflecting in Catholic churches.⁷ If this effect also applies to taxpaying, the shift in the norm from broad tolerance of tax obligations to nitpicking resistance could easily signal a large increase in negligent—even criminal—tax evasion. Thus, the appearance of a norm supporting minimal interpretations of tax liabilities in place of a norm that was more supportive of taxpaying is consistent with the notion that, at the edges, tax noncompliance (verging on tax evasion) has increased, conceivably by large amounts.

Assuming that taxpayer motivation has declined, one could find the explanation in many different features of modern life. An obvious explanation is the general decline in economic conditions. Because people generally feel more hard-pressed, they are less willing to pay taxes and more eager to exploit loopholes, some of which are illegal. Another explanation may be the declining enforcement capacities of the IRS. The proportion of audited tax returns decreased from 5 percent in 1964 to 2 percent in 1979.⁸ Note that these explanations emphasize the material factors motivating noncompliance: the increased importance of money to the taxpayer, and the reduced risk of being detected by enforcement action.

One could also explain the fading motivation to pay taxes in terms of social or moral factors. It could be, for example, that individual taxpayers feel justified in minimizing tax liabilities because "everyone is

doing it," including people who occupy privileged positions that should, by common expectation, oblige them more heavily to the public order.

It could also be that the social value of paying taxes has declined because the purposes of government no longer seem as compelling as they once did. If the government's programs and purposes are not what the public wants, or if the public thinks the programs are administered in sloppy and wasteful ways, the motivation to pay taxes may also deteriorate. In this regard, it is significant that the last two presidential elections have been won by candidates who campaigned against the federal government *and* against the federal tax code. Carter made competence in government a central campaign issue and declared repeatedly that the tax code was "a disgrace to the human race." Reagan attacked the basic purposes of government and vowed to end allegedly widespread "fraud, waste and abuse" and to cut taxes. Arguably, political statements like these reflect prevailing attitudes rather than create them, but it is hard to believe that presidential declarations don't add increased conviction to social opinions. It may also be significant that there has been no popular war to rekindle feelings of patriotism for the last thirty years.⁹

Obviously, it is hard to choose among these competing explanations. Each may contain a bit of the truth. But two apparent facts about the tax gap can help us choose among these explanations and guide our response. The first is that the increase in the tax gap has been recent and large. The second is that noncompliance seems to be broadly distributed throughout the population. It is not a few powerful people who are cheating a lot, it is many ordinary people cheating a little. While these facts are consistent with theories that put primary emphasis on economic conditions or enforcement capabilities, they are also consistent with theories that emphasize social factors, such as the erosion of norms supporting taxpaying and fading support for government programs. Perhaps more importantly, in a world where the economy will improve only slightly and where the willingness to hire additional IRS agents is low, the possibility of closing the tax gap through better management of the social process of taxpaying may be the most attractive policy option for government. It is hard to imagine how else we will reach the millions of "chiselling" taxpayers. Therefore, it is useful to look briefly at the subject of individual motivation.

III. Individual Motivation and Social Norms

We tend to believe that individuals are motivated by rational self-interest. Sometimes, when things are going well and we feel a bit more optimistic, we add the word "enlightened" to "self-interest." This invokes the sense that self-interested but farseeing people will sometimes agree to abide by rules instead of narrowly calculating their interests, that in constructing rules the interests of others must be taken into ac-

count, and that rules should allow for the pursuit of moral as well as material values. Such principles are still animated by self-interest, but self-interest is now modified by the fact that we live in a society where we are constantly coming into contact with other people and where we have modified our conception of self-interest to include moral as well as material pursuits. In effect, social life is treated as a problem that must be managed to allow the pursuit of individual liberty.

A slightly different way of thinking about the world is that individuals are motivated by a desire to participate in social processes as well as to pursue their individual goals. As Aristotle observed, man is not a solitary but a political animal.¹⁰ Wilson has recently given a modern cast to this idea.¹¹ Writing in response to an economist's explanation of why groups with a common interest in producing a collective good will rarely form, due to the fact that people who decline to contribute to the production of the good cannot be excluded from its consumption once produced, Wilson points out that this theory must be wrong, for we see all around us groups that have formed to do nothing other than produce collective goods. His explanation of this empirical fact is that people are motivated by two different kinds of incentives beyond the material incentives that economists recognize. One kind he describes as "solidary" incentives: the desire to be a part of a group, to win the approval of one's colleagues, to have high standing and status within the group, and to enjoy camaraderie. A second kind he describes as "purposive" incentives: the ordinary human desire to achieve larger purposes, to accomplish things that no individual could accomplish alone, to be part of a cause that will survive after one's own death.

Stated so simply and directly, it is easy to agree that individuals have such motivations. But to agree quickly with this proposition is to miss its significance. If it is true that individuals are motivated by solidary and purposive incentives as well as material ones, then some capacity to motivate and organize human societies exists in nothing more than the web of social interaction. If I care what you think, then you can motivate and guide me simply by nodding or frowning. If I think it is important that freedom survive in the world, and if you can show me that the protection of freedom is linked to running up a hill defended by machine guns, then I will run up the hill.

Of course, it is always possible to find narrow self-interest behind these acts. Indeed, if we think of social status, virtue, and salvation as things that are earned by good deeds and savored by individuals for their own benefit, we can find selfishness in actions masquerading as selflessness. Moreover, we often arrange our institutions to create self-interested reasons for accomplishing public goals. Thus, the nod that has the greatest effect comes from the person who commands future employment opportunities. Behind the lieutenant's appeal to patriotism is the threat of execution for insubordination or desertion.

But none of this detracts from the basic point. Among the reasons why people do things is the desire to participate in a social process that creates solidary and purposive incentives as a necessary, vital part of its operations. In this sense, people are "political." They are part of societies not only because they have to be, but because they like it that way. Societies sometimes are threats to individuals, but they also offer opportunities for them to enjoy the camaraderie of shared purposes. Indeed, it is possible to see democratic societies not as groups of isolated individuals holding jealously to their individual rights but instead as communities trying to celebrate the virtue of individual liberty and the diverse human conduct it spawns. In effect, the democratic community exists in everybody's enthusiasm for everyone else's difference and the liberty expressed through diversity. That, and only that, is what the members of the community share.

There is an important link between the notion that individuals are motivated by the regard of others and the desire to achieve great purposes, on one hand, and the concept of a social norm on the other. From the point of view of an individual motivated by solidary and purposive incentives, it is important to know what deeds will win status and advance great purposes. Otherwise, his desire to secure these results will be frustrated. Similarly, large numbers of people must agree on these matters, or the concrete social response to individual conduct will be unexpected and frustrating to the individual. A social norm solves this problem by indicating to individual actors the actions that are consistent with earning the regard of others and advancing broad purposes while indicating to individual onlookers which acts should prompt praise and a celebration of shared purposes, and which should prompt criticism and a sense of conflict. Or, put somewhat differently, we may say that a social norm exists when people agree that specific actions are virtuous and organize their own conduct—both as actors and as audiences,—in accord with substantive rules. In effect, social norms illuminate the paths to individual and social virtue and to the achievement of shared purposes.

IV. Supporting Taxpaying with Social Norms

If it is true that individuals are motivated by ambition to satisfy the expectations of others and achieve broad purposes, and if social norms are the rules that guide ambition, then these forces may be available to government in its efforts to close the tax gap. Or, put somewhat differently, if conceptions of virtue and social norms are part of what determines tax compliance, it may be important to reinvigorate old norms that supported taxpaying and prevent the growth of norms that discourage taxpaying. That government has benefitted from norms supporting taxpaying on bases other than material self-interest (and con-

tinues to do so) is manifestly clear from examining taxpayer conduct. The current level of tax compliance is far higher than one could account for if taxpayers were motivated by nothing more than the fear of punishment by the IRS. Of course, one does not have to conclude from this fact that people *want* (are positively, as opposed to negatively, motivated) to pay their taxes. It may be that they fear humiliation and loss of status if they are caught, as well as economic loss and the threat of imprisonment. But to fear humiliation and loss of status is the same thing as valuing being a good citizen. So, while this model suggests that the taxpayer's motivation is the fear of loss rather than the pursuit of virtue, he fears the loss because of his desire to embody social virtue.

That the government may now be suffering losses from the gradual erosion of the norms supporting taxpaying is also clear. That is apparent from discussions of increasing taxpayer resistance to tax programs. If people no longer think that paying taxes earns respect from one's peers but instead derision as an unworldly chump, and if they no longer think that paying taxes is part of the mission of showing the world the virtues of "the American way," then the norms are clearly eroding. With the erosion of these norms, the chances of closing the tax gap reliably and inexpensively also wither. The alternative—increasing enforcement to offset the decline in voluntary, normative motivation—is extremely expensive in economic and social terms. And, ironically, if enforcement alone is expanded, the norms supporting tax compliance may deteriorate even more quickly. That is because the expansion of enforcement communicates an idea of what is expected of people as well as what is desirable. If the system operates on the assumption that people will not pay taxes unless forced to do so, taxpayers are granted a license to adopt this attitude for themselves. To do otherwise would be to expose themselves to charges of naivete, a quality distinctly unbecoming in a society that depends on everyone seeing and advancing his own interests.

This suggests that finding ways to protect or bolster the norms supporting voluntary tax compliance is a crucially important part of any policy designed to close the tax gap. This, in turn, suggests that it is important to connect taxpaying to individuals' desires to maintain the regard of their fellow citizens and to accomplish large collective purposes. How to do this through governmental action is the next question to be addressed. We will examine three possible actions: (1) reestablishing the status of taxpayer as a dignified social office with privileges, entitlements, and recognition proportionate to its demands; (2) making the process of paying taxes more "public" by enlisting the aid of various third parties in encouraging voluntary taxpaying; and (3) reestablishing the link between paying taxes and achieving shared public purposes.

V. Restoring the "Office" of Taxpayer

Included in a book of photographs of Durham County, North Carolina, by Bill Bamberger is an arresting picture of a thin, aging man swaggering in front of a local diner.¹² The swagger is sheer bravado. A huge cowboy hat doesn't disguise the weakness of the wizened face, and the man's boots fail to convey a forceful stance. A woman peering out the window of the diner shares our amusement. What could this man possibly be proud of? From what social position does he claim the right to swagger so? The answer may be the large belt buckle on the wide belt behind which the swaggering man has tucked his thumbs: the buckle is emblazoned with the words "Official U.S. Taxpayer."

We have come a long way from the time when being a taxpayer entitled a citizen to any special status within his community or any special privileges from the government. Once, only those who had property and paid taxes were entrusted with the rights and responsibilities of citizenship. "Citizen" and "taxpayer" were closely related concepts, and both were distinguished sharply from being a mere inhabitant of an area. In short, taxpayers were rewarded with the status and political influence befitting their greater interest in and capacity to contribute to the state.

Inevitably, this tradition was shattered by the pursuit of equality. The idea that some citizens' voices should count more than others, or that some citizens should be given more responsive government services, was anathema to those who held egalitarian views. To them, the special status accorded to taxpayers was simply a disguise for the old system of caste and privilege. Only occasionally now is someone foolish enough to claim special status by virtue of honest, reliable taxpaying—only the rare novice speaker at a town meeting who establishes his right to speak by introducing himself as a taxpayer, or the man who bolsters his marginal social status by wearing a belt buckle.

No one wants to go back to a world where only taxpayers could vote, participate in political meetings, and so on. Political equality in shaping government policy, in claiming privileges from the government, and in warding off undesirable duties and unjust punishments is a far more important social goal than making tax administration easier and more effective. But it might be possible for the government to take actions which granted a special status to reliable tax filers and taxpayers without harming the concept of political equality.

Perhaps the most important change would be to shift our concept of tax enforcement from a focus on tax returns to a focus on taxpayers. The analogous act in the criminal justice system would be to shift our focus from acts to the question of what those acts revealed about the character of offenders. Instead of sampling returns and calling in those whose returns revealed errors, the IRS would sample taxpayers and review their history of taxpaying. If the taxpayers were accurate and lawful over the years, they would be given a special status that exposed

them to less scrutiny in the future. They would be recognized as "honest taxpayers" and rewarded with the trust of the IRS.

This system would have several advantages. First, by auditing tax-paying history rather than current returns, the IRS would make the taxpayer accountable not only for this year's return but also for previous and future years. Since the records will not deteriorate, this strategy would extend the taxpayer's vulnerability well beyond current limits. Second, this system would be designed less to collect additional taxes (although it would do this) than to allocate status—that is, to say something about the character of the taxpayer. The resulting judgment would have both material and normative implications which would act as incentives for tax compliance. All in all, such a system might have greater impact than one based on auditing a sample of returns for missed tax liabilities.

A more controversial idea would be to tie access to government services to honest and responsive taxpaying behavior. This could include such things as rewarding such behavior by granting special privileges at national parks, processing applications for drivers' licenses more quickly, or perhaps even making honest taxpaying a condition for receiving government loans. Note that the proposal is not to grant special privileges to large taxpayers but to honest and reliable taxpayers. These privileges would honor good citizenship and public-spiritedness, not wealth. Indeed, since the aim of this system would be to build individual commitment to and knowledge of the tax system, it might be desirable to exclude from a system of special privileges all those who have their tax returns prepared by others.

In short, by reviewing individual histories to distinguish honest taxpayers from those who chisel and making the distinctions matter in terms of future vulnerability to IRS audits and the reception of special privileges, we might create an IRS equivalent of a Gold American Express Card. We might even distribute large brass belt buckles to suggest the special status of those who pay their taxes.

VI. Mobilizing Third Parties

While individual taxpayers are the ultimate targets of efforts to bolster the norms supporting voluntary taxpaying, a crucial part of the machinery to be mobilized consists of third parties in a position to promote tax compliance by giving advice, creating records, or reminding taxpayers of their duties and obligations. Examples of such third parties include friends and colleagues, professional tax advisers, tax return preparers, custodians of taxpayer assets, and those who purchase goods or services from taxpayers and therefore partially determine their incomes. Of course, many such third parties have already been

recruited through the systems of tax withholding, wage reporting, interest reporting, and so on. Moreover, they produce their effect by creating auditable records.

What I have in mind, however, is a broader use of third parties. The antismoking movement may offer a convenient analogy. By all accounts, about twenty million people have given up cigarette smoking in the last decade.¹³ No doubt the smoker's desire to protect his own health has played a significant role in this. But smokers who have quit and outside observers point to another factor as well: active efforts by nonsmokers to restrict smoking. Special sections in airplanes and restaurants where smoking is forbidden exemplify the formal apparatus of control. But this apparatus has been animated and broadened by the willingness of nonsmokers to insist not only on their formal rights but also to ask smokers to defer to their interests even in situations not covered by a rule or ordinance. In short, nonsmokers have become extremely active in both criticizing and restricting smokers, and this has reduced the national level of smoking. Perhaps a similar movement could be created to encourage tax compliance.

A key element in the rise of the antismoking movement seems to have been the argument that smoking is not simply a private matter, that it affects the health of others in the same room with smokers. As a result, nonsmokers had a justifiable interest in discouraging smokers. This suggests that a crucial ingredient of any campaign to mobilize popular support for tax compliance is to present a convincing rationale that the interests of honest taxpayers are adversely affected by tax chiselling. The appropriate line of argument seems obvious. Tax chiselling hurts honest taxpayers by requiring them to pay more than their share for public services. Therefore, all taxpayers have an interest in discouraging tax chiselling. Note that in making this argument, it should be emphasized that most people pay their taxes responsibly, and that only a few who are easily tempted by their circumstances or who are particularly badly motivated chisel on their tax liabilities. Otherwise, the general public might take the government's greater interest in promoting tax compliance as a sign that most people are not now fully meeting their tax liabilities and that therefore such conduct is ordinary and appropriate rather than unusual and deviant.

It should also be noted that the antismoking campaign has succeeded in part because the offending behavior is generally quite visible. It would be hard to make taxpaying as visible as smoking while still respecting the interest that citizens have in protecting the privacy of information about their financial standing. This means that any attempt to mobilize citizens in general against tax chiselling would probably not be successful. But one can imagine the mobilization of certain people in specific positions vis-à-vis taxpayers.

1. Mobilizing Tax Advisers

The third party in the best position to observe and guide taxpaying practices is whomever a taxpayer chooses as his tax consultant. Sometimes this is a spouse or relative, sometimes a colleague, sometimes a professional tax adviser, and sometimes the IRS. Since these advisers communicate not only technical advice but also general attitudes towards taxpaying, and since they are part of the audience in front of which a taxpayer performs, their attitudes will powerfully condition a taxpayer's actions. Consequently, this group is an important one to mobilize.

Obviously, informal tax advising is beyond the reach of all but the most general appeals. If we restored the office of taxpayer to its former standing, and if we managed to persuade people that tax chiselling hurts other citizens, informal advisers might communicate or reinforce for certain people the general social attitude toward taxpaying. But it is hard to see how we could encourage informal advisers in more specific ways.

The commercial tax advising system might be more open to direct intervention. I have no statistics about the size, character, or growth rate of commercial tax advising, but my impression is that it has grown enormously. Moreover, it appears that commercial tax advisers have a strong incentive to encourage narrow calculation of tax liabilities—calculations, perhaps, verging on chiselling. Their business is to sell "tax savings" to taxpayers who are uncertain about their liabilities but eager to find ways to shrink them. While commercial advisers are legally and financially liable for the advice they give, they are not responsible, except as return preparers, for what the taxpayer does with their advice.¹⁴ And they have no particular reason to be concerned about the fact that by selling tax savings they are also helping to foster attitudes more favorable to chiselling. By their actions, they tell taxpayers that narrow calculation of tax liabilities is appropriate, and that everyone does it. They convey the notion that only chumps play the tax game conservatively by simplifying their returns and ignoring potential savings. Each line of the tax form must be carefully explored for a possible saving, and each potential saving exploited.

The problem with commercial tax advising is that it is a business that has important implications for the public welfare (in the sense that it affects the norms governing taxpaying) but is operated without regard for these implications. In this, tax advisers are like electricians, plumbers, or tavern owners, whose professional conduct can affect the chance of fires or sickness or drunken violence. One possible response would be to license tax advisers as we now license plumbers, electricians, and tavern owners. The justification for licensing would be their semipublic role in disseminating information and conveying attitudes about taxpaying. The aim of licensing would be to ensure that tax ad-

visers are not only competent but also public-spirited. As part of that public-spiritedness they should constantly remind taxpayers that their job is to help taxpayers pay the correct amount of taxes—not find loopholes, or play tricks, or overlook income that must be reported. In this way they would protect rather than erode the norms supporting tax compliance.

If the idea of licensing commercial tax advisers seems too great an intrusion or seems to threaten an excessive increase in the price of tax advising services, there is an alternative approach: make the IRS tax advising system more competitive with commercial tax advisers. IRS now has a taxpayer service to answer taxpayers' questions. In principle, it has a competitive advantage over commercial tax advisers because it is both free and authoritative. On the other hand, it has one crucial liability from the taxpayer's point of view: the interests of the IRS may be opposed to those of the taxpayer, and IRS advice may be too closely tied to IRS enforcement. In addition, the IRS may be less responsive to the individual's concern, less quick in giving an answer, and less willing to let the citizen influence the taxpaying process. But if people think of taxpaying as a social duty and trust the IRS to provide accurate information and follow fair auditing procedures, the appeal of commercial tax advising firms would gradually disappear.

2. Mobilizing Customers

A second type of third party in a position to promote tax compliance is the person who pays for goods or services. Current estimates indicate that the single largest factor in the tax gap is the underreporting of income by proprietors or wage earners in small businesses where records are not well kept and many transactions are in cash.¹⁵ If the firm doesn't need good accounting to guard against internal theft, and if there is some tax advantage in not keeping auditable records, then the only persons with an incentive to create auditable records are customers of the firm. If customers changed their habits by paying more often with checks or credit cards rather than cash, they would increase the number of auditable records. This, in turn, would encourage greater compliance. This shift in behavior might be brought about by a general mobilization of the citizenry in support of tax compliance, or it might be stimulated by a law requiring people to pay for some services with checks.¹⁶

3. Publicizing the Process of Taxpaying

The broadest notion on how to mobilize third parties to promote tax compliance is to make taxpaying a public rather than a private process. This might be accomplished by making taxpayers' returns available to public scrutiny by placing them on file in a public building. Obviously,

however, such a proposal reminds us that the real reason we support privacy so zealously is to limit a person's vulnerability to the many different kinds of extortion. But it is interesting to note that as staunch a protector of liberty as John Stuart Mill opposed the use of the secret ballot because it would allow self-interested motives to come into play in what should be a public-regarding act.¹⁷ In his view, public scrutiny fostered responsibility rather than creating vulnerability. Taxpaying is arguably the same way: it is done one way in private, and quite differently if performed in public. It, too, might be improved by being open to public scrutiny. After all, local property tax assessments and payments are often matters of public record. This at least creates a precedent for giving the public access to the tax rolls. It might therefore be worthwhile to conduct a small empirical study to determine if public access to tax records would increase compliance.

VII. Linking Tax Compliance to Public Purposes

So far, we have been discussing methods of motivating tax compliance that work primarily on the taxpayer's desire to gain or maintain the regard of his fellows. But if Wilson is correct in his view that people are sometimes motivated by the desire to accomplish larger purposes, then this desire too could be a means of motivating tax compliance. In other words, taxes should be seen as the way in which the United States pays to accomplish important collective purposes rather than as an obstacle to private initiative and satisfaction.

In thinking about how to do this, one comes quickly to the obstacle presented by our ideology. If individuals are prior to government, and all collective endeavors are seen as potential threats to liberty, it is hard to get people to understand that our government has produced a community of great historical significance, a community that is strong, fosters liberty, and yet cushions many of the hazards that have traditionally haunted human lives—sickness, early death, starvation, abject poverty, and so on. That this society has been produced by government as well as by private initiative is all too easily forgotten when people make out their checks to the "unproductive sector."

The task of linking taxpaying to the accomplishment of important public purposes is also made exceptionally difficult by political attacks on government purposes, programs, and personnel. Both Carter and Reagan called the federal government a main source of America's problems rather than part of their solution. They said that government programs are full of waste and that government officials are alternately lazy and overzealous. It is hardly surprising, then, that many people now feel less motivated to pay their taxes than they did during the Second World War, for example, or during the period when President Kennedy called on us to "ask not what your country can do for you, but what you can do for your country."

If the government stands for nothing that is particularly attractive to citizens, it is hardly surprising that they resist paying taxes. The remedy seems obvious. Return to centrist politics based on enduring American values, avoid symbolic clashes of ideology, create worthy political leadership, improve the performance of the bureaucracy, and so on. But to say these things should be done to improve tax compliance is a little like saying one should build a house to display pictures. Presumably, all of these objectives are worthwhile for more important reasons than improving tax compliance. Unless these things happen, however, the degree of tax compliance may continue to erode because we are failing to provide one of the most important motivations for compliance: the confidence that paying taxes will contribute to a stronger national community.

There is one method, however, borrowed from private charity, that might at least begin to strengthen the link between paying taxes and accomplishing public purposes. That is the idea of allowing citizens to earmark their taxes for specific purposes. If such instructions were treated as binding, of course, they would throw the federal budgeting system into chaos (though how much greater chaos than it now experiences is uncertain). If, however, the earmarking were merely advisory, or if citizens were allowed to earmark only a portion of their tax payments, they might provide information about which programs are popular and thus help to reestablish the link between the payment of taxes and the accomplishment of public purposes.

VIII. Conclusions

The tax system has always depended on voluntary compliance rooted in a sturdy sense of civic duty. For the most part, we have taken this for granted. It is only when tax compliance begins to erode that we notice this dependence and discover how little there is in our ideology and institutional arrangements that nourishes this sense of civic duty. In hard times, when government is widely attacked, the virtue of defending one's interests becomes an excuse for tax chiselling. In short, our political ideology offers little support for enthusiastic taxpaying. Traditional proposals to close the tax gap seem equally bankrupt. Typically, we propose to deter tax evasion by broadening the record of economic transactions reported to the IRS, by increasing the percentage of audited returns, by better targeting of audit resources, and perhaps even by increasing the severity of penalties. All this in a world where fewer than 3 percent of returns are now audited and if we doubled our capacity we might reach 6 percent.

The alternative is to reestablish taxpaying as a normative social process. Taxpaying should not be simply a duty to be endured, but a virtue to be rewarded. It should not be a private act between a citizen and his government, but a public one in which third parties participate in

support of public virtues. And it should be reconnected to the great public purposes which it allows to go forward.

Undoubtedly this all sounds quite unrealistic, perhaps even dangerous. But one must remember that part of the reason it seems so unfamiliar is that it runs directly counter to our political ideology, if not our traditions. Moreover, given that the tax gap consists of a large number of people cheating a little, it is hard to imagine any other way of reaching the problem. In this sense, creating a public movement to support taxpaying may be more realistic than more traditional responses. It may be the only kind of action that can achieve the requisite scale and reach.

Footnotes

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¹Berger and Neuhaus call these institutions "mediating structures." P/ BERGER & R. NEUHAUS. *TO EMPOWER PEOPLE: THE ROLE OF MEDIATING STRUCTURES IN PUBLIC POLICY* (1977).

²O'Hare, "Not on My Block You Don't:" *Facility Siting and the Strategic Importance of Compensation*, 25 *PUBLIC POLICY* 407 (1977).

³See J. WILSON. *POLITICAL ORGANIZATIONS 19-55* (1974). [Hereinafter cited as J. WILSON].

⁴For some estimates, see INTERNAL REVENUE SERVICE, *ESTIMATES OF INCOME UNREPORTED ON DIVIDUAL INCOME TAX RETURNS* (1979) [hereinafter cited as IRS, ESTIMATES]; S. LONG. *THE INTERNAL REVENUE SERVICE: MEASURING TAX OFFENSES AND ENFORCEMENT RESPONSE* (1980); COMPTROLLER GENERAL. *FURTHER RESEARCH INTO NON-COMPLIANCE IS NEEDED TO REDUCE GROWING TAX LOSSES* (1982) [hereinafter cited as COMPTROLLER GENERAL, FURTHER RESEARCH].

⁵See, e.g., Allport, *The J-Curve Hypothesis of Conforming Behavior*, 5 *J. SOC. PSYCHOLOGY* 141 (1934). [Hereinafter cited as Allport, *The J-Curve Hypothesis*].

⁶This result gave rise to what has been called the "single distribution theory" of alcohol consumption which holds that the number of alcoholics in a society is determined by the average level of alcohol consumption in the society, and that the number of alcoholics is an increasing function of the average level of consumption. K. BRUUN, *ALCOHOL CONTROL POLICIES IN PUBLIC HEALTH PERSPECTIVE* 30-45 (1975).

⁷Allport, *The J-Curve Hypothesis*, *supra* note 5.

⁸COMPTROLLER GENERAL, *FURTHER RESEARCH* *supra* note 4.

⁹I am indebted to Mr. James B. Lewis for emphasizing this point.

¹⁰ARISTOTLES. 1 *POLITICS* *ch.2, sec. 1253, line 2.

¹¹J. WILSON, *supra* note 3.

¹²B. BAMBERGER, DURHAM COUNTY PHOTOGRAPHS 13 (1982).

¹³DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE chs. 16, 19 (1979).

¹⁴I am indebted to Mr. James B. Lewis for technical advice on this point.

¹⁵IRS, ESTIMATES. *supra*, note 4.

¹⁶*Swedes Tax Law Forces Citizens to Be Informers*, Boston Globe, Jan. 24, 1983, at 6, Col. 1.

¹⁷A. Teuber, *The Philosophy, Politics and History of the Secret Ballot* (1982) (unpublished manuscript).