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David E. McClean, PhD

Romney's Tax Returns, and Other Canards

Let's be honest about the brouhaha concerning Romney's tax returns, as well as other interesting (if not compelling) positions occupied by some on both the left and the right regarding tax policy, more generally. For now, we can examine these propositions and see how they hold up:

- Romney is using "loopholes" to pay less tax, even though he can afford to pay more
- Romney should release his tax returns for several more years
- Romney's use of off-shore bank accounts means that he is hiding something
- General Electric and other major corporations pay no taxes
- Corporations use "loopholes" to avoid paying taxes
- The rich should pay their fair share of taxes

These are all connected with some curious reasoning, misunderstanding, or are just canards, and the partisans on both sides can do better when critiquing each other's candidate than to resort to them.

Democrats like to point out that Romney is a plutocrat. It would be very hard to argue that a man of Romney's means and lifestyle isn't. This may indeed suggest that Romney is out of touch with the very people he seeks to represent as President. But what is baffling to me is the suggestion that his use of available tax deductions and credits should be foregone, and that he or any other person should pay more to the government than what is required by law. This thinking is foreign to most American sensibilities, and rightly so – it defies common sense. This doesn't mean that there aren't other things to fight about when it comes to the American tax system, but criticizing someone for knowing and using the tax code to one's advantage is nothing more than absurd on its face. Certainly, it is unimaginable that Romney's critics would forego an available tax credit or deduction out of the goodness of their hearts. So why should Romney or other wealthy Americans do so? And as for the expression "loopholes," it is used conveniently as a pejorative in Romney's case, but Romney's critics likely have no problem with enterprise zones, the mortgage interest deduction, or child care deductions and credits. These are all "loopholes," too. Whether Romney played other games with his tax returns, such as concerning his state of residence when running for Governor of Massachusetts (explored recently by **Rachel Maddow**), are fair areas of scrutiny. But pillory for the legal use of the tax code seems grossly unfair, unless one is (as were **Liam Murphy** and **Thomas Nagel** in their book *The Myth of Ownership: Taxes and Justice*) simply ideologically predisposed toward what I call The Bad Fantasy of Equality, which



is nothing more than a form of statism that will and should be resisted, even by my friends in the Occupy movement.

Indeed, the US tax code is filled with incentives and rewards for certain kinds of conduct deemed to be good for the country, or a township, or municipality, or even a family. Sometimes, these incentives and rewards seem lopsided or unfair and, indeed, some are the result of vigorous lobbying efforts on behalf of, well, plutocrats and corporations. But most of them aren't. For this reason, the call for a simplified tax code – one that will allow businesses and individuals to file their tax returns on something the size of a postcard – is based upon an astounding lack of understanding concerning public policy dimensions of the tax laws. For every whipping boy we find in the tax code, there are dozen other provisions that do good work to support important policy goals. The US tax code is a labyrinthine, interconnected, self-referential morass for a good reason. It helps to make things happen that we want to happen by providing incentives and rewards. Some say that the tax code shouldn't be used for these purposes. Well, that is a discussion for another day. For now, it is hard to imagine just how the intricate layers of tax regulation could ever be tweezed apart with assurances that doing so will not lead to a cascade of unintended consequences that will rush like a wave through households, towns, and cities all across the country. This is why the dream of a flat and "simple" tax system will remain just that – a dream, and a pipe dream at that. This may be regrettable, but it is where we are.

As for the notion that Romney should release his tax returns for several more years – something called for even by Republicans, such as **Ed Rollins** – it is understandable why someone in Romney's position would not. Let's be honest here: Democrats want Romney to release more returns because it will allow them to point out the extent of his holdings, and the very complexity of the documents will serve as fodder for their narrative concerning Romney's blue blood and detachment from the common folk. I get that. It is a political season, after all.

I also get why it is that people who might want to participate in government are reticent to release such intricate personal document to the public. Tax returns are not generally released to the public for a good reason – they contain a great deal of personal information. In the case of someone like Romney, this means a great deal of personal information that can be misconstrued, misunderstood, and serve as fodder for political (or even personal) enemies, even where there is nothing nefarious to hide. One of the problems with the current climate in politics, a climate that keeps good people from participating in the system, has to do with the witch hunt that attends that very participation. It is a serious problem for the country, as good and competent people quite rationally prefer to stay on the sidelines rather than enter the meat grinder of so-called transparency.

But shouldn't "the people" know everything about those who aspire to high office? No, "the people" should not. Not everything. Not every investment that one makes, bad or good. Not every source of income. Not every jot and tittle of one's personal financial life. This doesn't mean that the public should not have some details about their candidates and political appointees. But the high level of granularity that is being demanded these days is what keeps good people from participating, leaving us with those whose aspirations to high office are so great that they would allow a glaring public light to be thrown on even the most intimate details of their lives, including their financial lives. People with such



overweening aspirations should be suspect for other reasons, megalomania being just one of them. For higher levels of granularity, there are Congressional committees, the FBI and other investigative agencies – where full disclosures can be made without the often uninformed glare of muckrakers, demagogues and rabble-rousers, whether of a particular party or no particular party.

What Romney has already disclosed informs us about his non-US bank accounts. Well, the only rationale for a foreign bank account must be tax avoidance or evasion, right? Wrong. Just as with the myths and canards that surround corporate decisions to re-domicile to places such as Bermuda (the critics are often Republicans, like **Senator Charles Grassley**, who otherwise sing the praises of freedom and government non-interference in commercial decisions), the charge that offshore money must be dirty money is false. While off-shore accounts can be used to evade taxes or to facilitate illegal transactions (terrorism, the drug trade, etc.), most offshore or non-US accounts are used for legitimate purposes: an account in the local currency may be beneficial if one travels to or resides part of the year in a foreign country; one may need a foreign account because one is paid in local currency; one may merely be a signing officer on a foreign account over which he or she has control, but does not maintain beneficial ownership of the account – which is often the case with private equity firms and many other businesses.

So while the notion of an offshore account seems exotic to most of us, that exoticism ought not to be thought to always suggest dark interests. Once, the father of one of my son's friends came by my home, saw my PhD certificate on the wall and the open copy of a volume of *Das Kapital* on the coffee table (over which I had been poring in preparation for a lecture), and thought me quite "exotic." He asked if I was a Marxist. I told him that I noticed that he had his newspaper splayed open to the sports page, and then I asked him how long he played in the NBA. We both smiled. That was the end of the discussion.

These superficial hermeneutics of Romney's life are attended by other superficial commentaries, such as concerning General Electric and other large corporations, i.e. that these pay no taxes – which is often very far from the truth. Indeed, General Electric and other large corporations avail themselves, alas, of those darn "loopholes" that were just discussed. Large corporations, though able to avoid paying large income tax bills, pay out billions in payroll taxes – unavoidable when you have hundreds, thousands, or tens of thousands of employees. They also pay enormous amounts of sales tax (they buy lots and lots of things), both locally and distally. They pay foreign taxes. They pay property taxes. Increasing the marginal rates on corporations won't necessarily assure that they will pay more income taxes, on a net basis. The critics are quite right – these rascals will simply find clever arguments, via their armies of tax advisers, to avoid paying at the higher marginal rate. And so they should. But the taxes they save are passed on in appreciated stock values and dividends to pension accounts (yours and mine), mutual funds, and individual investors. Very little of what is saved actually goes to pay outrageous executive compensation. The jobs these large corporations create keep whole cities and towns alive and flourishing (**Michael Moore**, ironically, can testify to this) – indeed, keep the country itself running and internationally competitive.

And the people to whom these corporations pay salaries, well, they pay taxes. Some critics of large corporations would prefer a parallax view of the question of corporate taxation, rather than study the matter from the proper perspectives. One last point here: the media like to talk about gross revenue



when they talk about corporate largesse. But revenue and net income are not the same thing. A corporation that has gross revenues of \$1 billion may very well have operating expenses of \$900 million. But instead of noting the difference, the media tend to discuss gross revenues, and then point out the small amounts of income taxes these corporations pay. This is fun for ratings and newspaper circulations. It is bad for the public discourse.

Finally, as to the interesting notion that “the rich should pay their fair share of taxes” in order to help the country out of its current fiscal hole, I offer this rather off the beaten path observation: No American person or corporation should pay a penny more in taxes until we are sure that we will have a political class in Washington that has the good sense not to squander our treasure, whether on wars of choice or in a drive for egalitarian perfection. No American person or corporation should pay a penny more in taxes until we are sure that “too big to fail” is properly remedied, so that we, as taxpayers, are not subsidizing megalithic banks and other businesses, and then handed a bill for their stupidities and irresponsible gambits. The tax debate about who should or should not be paying more taxes is ahead of itself, or is at least leaving some very serious questions – questions of misfeasance, incompetence, and moral hazard off the table. Thus I join those conservatives who would “starve the beast” not because I agree with their platform of policy prescriptions, but because the first order of business must be a return to accountability, a proper notion that the money being dissipated in foolish ventures, comes from the sweat and toil of all of us.

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