

Two Eds are Better than One

(Or, it takes a village to make good tax policy)

Ed McCaffery
Conference in Honor of Ed Kleinbard
November 5, 2021

We can all be friends

- Ed K, Emmanuel and Gabriel, and I are each liberals or progressives who support greater redistribution of material resources and using the tax system to effect it
- Arguments/disagreements/different emphases among us are about different views of **means** and **ends**
- Not surprising: A century (millennia) of nontaxation of the rich creates difficult problems

Ed K and **an** End of
Redistribution

Analytic Points

- “Redistribution” has *different* meanings (McCaffery 2021)
- **One** such meaning is to increase the well being of the poor
- Mirrlees 1971 et al use the income tax (for “progressive redistributive taxation”) to effect an “efficient maximin:” highest credit (UBI) level possible without fall in aggregate welfare
- Leading to

Flat(tened) Wages Taxes + Progressive Spending

- Dominant view, starting with Mirrlees (1971)
 - Tremendous real world impact (Laffer, Reagan
- Meets **one** sense of redistribution: getting the most resources to the poor/lower income
 - In Mirrlees, maximizing the credit level
 - Note that Mirrlees himself unhappy with result and suggests looking beyond income tax to address privilege (see later slide)
- Most economists support the Mirrlees result (Stiglitz, Tuomala, McCaffery and Hines 2010), but note Diamond and Saez
- Policy recommendation:
 - Sir Anthony Atkinson, Flat Tax/Basic Income
 - Bird and Zolt, developing nations
 - Ed K, both books

There may be a case for very high marginal income tax rates to address other social issues, like the concentration of power among the wealthiest, but when it comes to maximizing the welfare of most Americans, what we need are adequate revenues from all sensible sources combined, imposed at reasonably progressive rates, without excessive reliance on very high top tax rates alone to fill the bucket.

EDWARD D. KLEINBARD, WHAT'S LUCK GOT TO DO WITH IT? HOW SMARTER GOVERNMENT CAN RESCUE THE AMERICAN DREAM 219 (2021).

It would be good to devise taxes complementary to the income-tax, designed to avoid the difficulties that tax is faced with. . . . With any such method of taxation, the risks of evasion are, of course, quite great: but if it is true, as our results suggest, that the income tax is not a very satisfactory alternative, *this objection must be weighed against the great desirability of finding some effective method of offsetting the unmerited favours that some of us receive from our genes and family advantages (emphasis supplied).*

Mirrlees 1971 at 208 (emphasis added).

Ends, Part II

The Problem?

- **The orphaned problem of taxing the rich**
 - McCaffery 2021
- Given Mirrlees result, taxing the rich means doing so for reasons **other than** aiding the poor
- There **are** such reasons
 - Piketty break up cycle of capital accumulation (later slide)
 - Ackerman and Alstott “privilege” tax
 - Sanders “Eliminate” Billionaires
 - Obviously not about revenue-raising.....
 - Biden “Fair Share”

The primary purpose of the capital tax is not to finance the social state but to regulate capitalism. The goal is first to stop the indefinite increase of inequality of wealth, and second to impose effective regulation on the financial and banking system in order to avoid crises.

THOMAS PIKETTY, CAPITAL IN THE 21ST CENTURY at 25

Emmanuel and Gabriel, and Ed
M, are addressing this
orphaned problem of taxing
the rich

Emmanuel and Gabriel's Approaches (Means, Part I)

Buy Borrow Die and Source-Based Solutions

- BBD: A word from its Sponsor
- Mark to market and wealth taxes address **Buy** step
 - Cf Wyden's Billionaires Tax
- Repeal stepped-up basis, tax gains at death address **Die** step
- See McCaffery *Taxing Wealth Seriously*, Tax Law Rev. 2017
- Note Ed K's BEIT:
 - Taxing capital *somehow* lacking *individuation*
 - Cf flat tax/UBI approach

Ed M and a different way to
tax the rich (Means, Part II)

Critique of Source-Based Approaches

- See:
 - A century of US Income taxation (Macomber, 1920!)
 - Millennia of world-wide taxation
 - Last week (the 24 hour life and death of the Billionaire's Tax)
 - Or today.....

A Different **Means** : A Progressive Spending Tax

- An idea trapped in a 1970s Show of Misunderstandings
- A Progressive Spending Tax:
 - Does tax the returns to capital, is not “yield exempt” McCaffery 2005
 - Acts as a wealth and an accessions tax
 - Is not a “tax later”/deferred approach
 - Changes efficiency analysis of progressive rates (McCaffery and Hines 2010)
 - Changes the meaning/rights of capital
 - Private management, social use
 - Leave issues of the possession of capital to capital markets regulation (antitrust, securities)
 - Curtails political spending (McCaffery 2020)
 - McCaffery on Piketty (*Revisiting Piketty: The Meaning of Capital in the 21st Century*, Mich. St. L.J. 2021)

We miss you, Better Ed

from Other Ed