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THE NATURE AND TAX TREATMENT OF CAPITAL GAINS AND LOSSES

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and

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PREFACE

Whether the profits a man realizes by selling stocks, bonds, land, houses, or other property not a part of his stock-in-trade for more than they cost him should be taxed as income or exempted in whole or in part has long been a moot question in the United States. Broadly known as capital gains, such profits, and the correlative capital losses, have been subjected to frequent changes in tax treatment since the beginning of the federal income tax. At all times the American treatment has differed materially from that of Great Britain and most Continental countries. Wide differences of opinion still exist regarding not only the most desirable policy but also the underlying facts and their interpretation and even the theoretical principles involved.

In view of the continuing public interest in the question, the Conference on Research in Fiscal Policy decided in 1943, under the chairmanship of W. L. Crum, to sponsor an objective investigation of the facts, as far as they could be made accessible, and of the main issues. The Directing Committee consisted of Lawrence H. Seltzer of Wayne University, Chairman, Selma F. Goldsmith, then of the Bureau of Agricultural Economics, now of the Department of Commerce, and M. Slade Kendrick of Cornell University.

While the major portion of the study and the setting down of its findings fell to me, my associates lightened the task considerably. Mrs. Goldsmith not only assembled, coordinated, and refined the figures on capital gains and losses from *Statistics of Income* but also, with great skill and resourcefulness, filled gaps and revealed many significant relations or their absence. Nearly all the statistical appendix is her work. She contributed also a preliminary draft of a substantial segment of Chapter 5, in which the figures are reviewed, as well as related materials used in several other chapters. Her chief assistant was Bella Shapiro; others were Marion Gillim and Merton Miller.

Professor Kendrick supplied several preliminary memoranda, including a survey of the tax treatment of capital gains and losses in other countries before World War II and various materials on real estate and corporations, and made helpful suggestions for refining the language in the final manuscript.

Professor Crum took a continuous active interest in the project from its inception, reading the drafts of every chapter with conscientious care and making numerous fruitful suggestions.

Robert Murray Haig of Columbia University, besides giving me the benefit of his own searching criticism, transmitted comments of members of his graduate seminar in public finance who reviewed the manuscript in the spring of 1949.

In addition, various members of the National Bureau's Research Staff and of its Committee on Fiscal Research read parts or all of the manuscript and offered valuable criticisms and suggestions: Arthur F. Burns, C. Lowell Harriss, Carl S. Shoup, and George J. Stigler of Columbia University; Dan Throop Smith of Harvard University, Milton Friedman of the University of Chicago, and Daniel M. Holland and Geoffrey H. Moore.

Many others have aided the enterprise. In writing Chapter 10 on the tax treatment of capital gains and losses abroad, I had the advantage not only of examining Professor Kendrick's materials on the prewar situation but also a manuscript by Paul Wueller of Pennsylvania State College, covering the same period. In bringing these studies up to date, I received valuable aid from Percival Brundage, senior partner of Price, Waterhouse and Co., who communicated with the foreign offices and correspondents of his firm on my behalf. Officials of various embassies and legations in Washington, and in some instances, their home offices as well, were also very cooperative.

Among others to whom I am indebted for their counsel and criticism are Harold M. Groves of the University of Wisconsin, Roswell H. Magill of Columbia University, Stanley S. Surrey of Harvard University, J. K. Lasser of J. K. Lasser & Co., George O. May of Price, Waterhouse and Co., Arthur H. Kent of the California Bar, Harry J. Rudick of the New York Bar, and Bayre Levin, Benjamin E. Jaffe, and A. J. Seltzer of the Michigan Bar. Needless to say, none of those mentioned necessarily shares my interpretations or is responsible for any errors.

Martha Anderson, Editor of the National Bureau of Economic Research, did much to smooth the text. H. Irving Forman made the charts.

Although the study lies primarily in the field of tax policy, I hope it will have some value outside. The economic nature of capital gains and losses has hitherto received remarkably little attention in the literature, and the discussion in Chapter 3 may challenge the unqualified acceptance of some widely held views. Students of national income may be interested in this discussion as well as in the continuous series on American capital gains and losses in Appendix Two.

Lawrence H. Seltzer

Contents

CHAPTER

CHAPTER

CHAPTER

TABLE

TABLE

II SAMPLE DATA FOR 1930, 1932, AND 1933

Federal Individual Income Tax Returns

A *Capital Gains and Losses from Various Types of Sale*

B *Capital Gains and Losses from Sales of Assets: Returns with Over-all Realized Net Capital Gains or Losses*

TABLE

TABLE

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