

CRE PERSPECTIVE

COMPLEXITY IN THE FEDERAL INCOME TAX LAW

Mark Lee Levine, CRE

An issue that arises at tax time is the constant barrage of complaints as to the complexity, involvement, and inter-workings of the federal income tax law. We often refer to this law as the "Code," referencing 26 U.S. Code Annotated, which is the portion of the United States Code that relates to the federal income tax laws.

Numerous arguments and presentations have been made for the need to reduce the complexity of the Tax Code. There was an entire Institute presented in February 2001, at the *New York University/Tax Analysts Government Tax Policy* workshop on simply the topic of tax code complexity. Numerous papers were presented at that Workshop regarding the complexity in the tax law and possible alternatives that should be reviewed to reduce this complexity. Those alternatives certainly address the total repeal of the tax law, as well as approaches that would allow for modifications on a substantial basis, of the federal income tax law.

One article has stated that the venerable Tax Code is 9,451 pages. ("Tax Reform Fever May Be Spreading: After VA Sweep, GOP Congressional Candidates Take Aim At IRS Code," *The Washington Post*, November 13, 1997, Page D5.)

Others argue that "the Code" is actually much less than 9,451 pages. They point out that the *Index* itself is 200 pages and there are various Tables and numerous other adjustments to the number indicated. In one article that reviewed this page count, the conclusion was that the "true" Code is about 2,000 pages. [For a discussion on this page count, see the short note by Robert Wells, "Meet the 9,451-page Internal Revenue Code," *Tax Notes* 453 (July 23, 2001).]

Whatever the length of the Code, it is too long, say many, and certainly too complex, say most.

One of the issues is how we weigh "complexity." Is that the number of calculations or the number of tables that have to be used? Is it the number of rules that have to be memorized and employed? Or is it simply the amount of time it takes to complete a tax return?

An article by William Gale, ("Tax Simplification: Issues and Options" *Tax Notes* 1463. September 10, 2001), reviews of some of these issues. Gale noted the surveys of some individual taxpayers as to the time it took them to record items, "learn" the rules, and physically prepare the return. (There were also estimates prepared by Gale as to the cost to operate the income tax law itself, considering the parties that are involved, whether Internal Revenue Service or others.) Within the article, he also cited approximately 50 other articles as resources that commented on the issue of complexity.

The move for simplification, at least by the Federal Joint Committee on Taxation, has produced a "Summary," printed in *Tax Notes* 861 (May 7, 2001), which lists pages of areas where reduction in complexity would be most beneficial, assuming the entire Code was not replaced.

Major areas for simplification were targeted, at least by the Joint Committee on Taxation, including Alternative Minimum Tax (AMT); changes as to Adjusted Gross Income (AGI); changes relative to Social Security calculations as they work into the income tax field, and capital gain calculations in some settings, among others. The suggested areas are certainly much more detailed than these comments as to areas that are in need of clarification or elimination.

The same concern and suggestions for reducing complexities in the tax law was examined in a recent article by Philip Harmleink and William VanDenburgh, ("An Appeal for Individual Tax Simplification," *Tax Notes* 107. January 7, 2002). In this article, the authors recognized the concern for simplification by stating: "The overwhelming need for tax simplification is nationally recognized. Unfortunately, achieving this objective has proven impossible."

If tax simplification is much needed but impossible to reach, most taxpayers would not be equipped

