

TAXATION OF GOVERNMENT SECURITIES AND SALARIES

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A RECOMMENDATION FOR LEGISLATION TO CORRECT INEQUITIES  
EXISTING IN THE PRESENT TAX LAWS

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JANUARY 19, 1939.—Referred to the Committee on Ways and Means and ordered  
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*To the Congress of the United States:*

In my message of April 25, 1938, I urged that the time had come when the Congress should exercise its constitutional power to tax income from whatever source derived. I urged that the time had come when private income should not be exempt either from Federal or State income tax simply because such private income is derived as interest from Federal, State, or municipal obligations, or because it is received as compensation for services rendered to the Federal, State, or municipal governments.

A fair and effective progressive income tax and a huge perpetual reserve of tax-exempt bonds could not exist side by side. Those who earn their livelihood from government should bear the same tax burden as those who earn their livelihood in private employment.

The tax immunities heretofore accorded to private income derived from Government securities or government employment are not inexorable requirements of the Constitution, but are the result of judicial decision. I repeat that it is not unreasonable to hope that judicial decision would permit the elimination of these immunities.

Decisions of the Supreme Court rendered since my message, particularly the decision in the *Port of New York Authority* case, have made an important and constructive contribution to the elimination of these inequitable immunities.

It is obvious, however, that these inequities cannot be satisfactorily corrected by judicial decisions alone. Without legislation to supplement them, many individuals and corporations will be subjected

to tax liabilities for income received in past years which they mistakenly, but in good faith, believed to be tax exempt. It is evident, for example, that employees of many State agencies as well as the holders of securities of public corporations believed that the income they received from such sources was tax exempt, in view of the opinions of eminent counsel based upon earlier decisions of the Supreme Court. In the interest of equity and justice, therefore, immediate legislation is required to prevent recent judicial decisions from operating in such a retroactive fashion as to impose tax liability on these innocent employees and investors for salaries heretofore earned, or on income derived from securities heretofore issued.

In the light of those decisions there are, among the taxpayers of the Nation, inevitable uncertainties respecting their tax liabilities. There is uncertainty whether the salaries which they receive are not taxable under the existing provisions of the revenue acts; there is uncertainty whether the interest which they receive upon the obligations of governmental instrumentalities is similarly not taxable; and there is an uncertainty whether the salaries and interest which they have received for past years will create an unanticipated source of tax liabilities and penalties.

In view of the fact that the Bureau of Internal Revenue will have no choice but to enforce our income-tax law as declared in the latest decisions of the Supreme Court, prompt legislation is necessary to safeguard against the inequities to which I have referred. The need, therefore, is for the prompt enactment of equitable rules, prospective in operation, which the Bureau can apply and taxpayers can observe without that mass of litigation which otherwise is to be anticipated. We are confronted with a situation which can be handled with fairness to all and with reasonable administrative convenience only through the cooperation of the Congress and the courts.

Unless the Congress passes some legislation dealing with this situation prior to March 15th, I am informed by the Secretary of the Treasury that he will be obliged to collect back taxes for at least 3 years upon the employees of many State agencies and upon the security holders of many State corporate instrumentalities, who mistakenly but in good faith believed they were tax exempt. The assessment and collection of these taxes will doubtlessly in many cases produce great hardship.

Accordingly, I recommend legislation to correct the existing inequitable situation, and at the same time to make private income from all Government salaries hereafter earned and from all Government securities hereafter issued subject to the general income-tax laws of the Nation and of the several States. It is difficult for almost all citizens to understand why a constitutional provision permitting taxes on "income from whatever source derived" does not mean "from whatever source derived."

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *January 19, 1939.*