SETON HALL UNIVERSITY SCHOOL OF LAW LEGISLATIVE BUREAU SYMPOSIUM ON THE VIABILITY OF THE FLAT TAX — APRIL 26, 1996

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The battle for the Republican Presidential nomination triggered a debate as to whether our current tax system should be replaced with one that features a flat rate. Although ideas for a flat tax had previously been proposed by Congressman Richard Armey (R-Tex) and United States Senator Richard Shelby (R-Miss),[1] and Professors Robert E. Hall and Alvin Rabushka (Hall-Rabushka),[2] it took Republican Presidential hopeful Malcolm "Steve" Forbes to bring the idea national attention.

While various proposals differ, most flat tax plans embody the same major features. All taxable income would be subject to a single rate (Hall and Rabushka proposed a 19% rate; Congressman Armey and Senator Shelby have called for a 17% rate, as has Steve Forbes).[3] Individuals would be taxed only on wages, salaries and pensions.[4] There would be a sizeable personal allowance, but no personal deductions.[5] The personal tax return would be simple to complete. For most people, the tax form would be no larger than a post card. Businesses would be taxed on all business receipts, less wages, salaries and pension contributions paid, and less purchases of materials, supplies and services from other businesses.[6] Expenditures for fixed assets, such as buildings and equipment, would also be fully deductible.[7] Interest payments, however, and employer

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1 H.R. 2060, 104th Cong., 2d Sess (1995); S. 488, 104th Cong., 1st Sess. (1995).

2 ROBERT E. HALL & ALVIN RABUSHKA, THE FLAT TAX (2d ed. 1995).

3 Tax Foundation, Tax Features, Volume 39, Number 7, FOUNDATION ANALYSIS CONTRASTS INCOME TAX TO FLAT TAX FOR FOUR MIDDLE-CLASS FAMILIES (September 1995).

4 *Id.*

5 *Id.*

6 AFL-CIO, Report No. 81, THE FLAT TAX: IF YOU'RE NOT RICH, IT WILL FLATTEN YOUR WALLET (June 1995).

7 *Id.* at 2.

payments for non-pension job-related benefits, such as medical insurance, would not be deductible.[8]

Proponents of the flat tax proffer that the lower, single-rate structure, with no double taxation of dividends, no tax bias for debt financing, and no capital gains taxes, would enhance economic growth and increase equality and fairness.[9] Additionally, proponents argue that the plan creates incentives to save and invest time and money in education and training, that will raise the economy's stock of economic and human capital, and thereby increase national wealth, decrease economic inequality, and increase real tax receipts.[10]

Opponents argue, however, that the flat tax is unfair. They claim it will result in a large tax cut for those with incomes above $200,000, while increasing the annual taxes of those making $50,000-$75,000 per years by an average of $2,000.[11] Furthermore, opponents argue that the flat tax would result in a huge revenue shortfall, thereby causing an even bigger budget deficit.[12] In addition, because non-wage income will be exempt, opponents assert that the flat tax would impose a greater burden on working people, rather than the wealthy, whose income more commonly includes capital and other investments.[13]

Many questions surround the viability of the flat tax. At its annual spring symposium in 1996, the *Seton Hall Legislative Bureau* brought together an impressive panel of legislators, attorneys, economists, legal scholars, policy makers and taxation professors to address these questions. Each panelist was asked to assess the viability of the flat tax, and whether the American taxpayers would benefit from a revised federal income tax system that incorporated a flat tax. The symposium was comprised of two panels, one con-

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8 *Id.*

9 Hudson Briefing Paper, Alan Reynolds, Number 185, THE FAIRNESS OF A FLAT TAX (January 1996).

10 *Id.*

11 THE FLAT TAX: IF YOU'RE NOT RICH, IT WILL FLATTEN YOUR WALLET, *supra* note 6.

12 *Id.*

13 *Id.* Taxpayers with incomes between $30,000 and $75,000 per year derive 83% of their income from wages and salaries, and only 6% from dividends, interest and capital gains. *Id.* As opposed to the richest taxpayers, with incomes of $200,000 per year and up, who receive a much smaller 49% of their incomes in the form of wages and salaries, but derive 35% from dividends, interest and capital gains. *Id.*

sisting of taxation professors and economists and another of policy makers.

Ohio State Treasurer, J. Kenneth Blackwell, Commissioner on the National Commission on Economic Growth and Tax Reform, otherwise known as the Kemp Commission, provided the opening remarks as the Keynote Speaker. The Kemp Commission proposed a plan to overhaul the nation's tax system, which included a flat tax rate.

New Jersey State Senator Bernard F. Kenney, Jr., ranking Democrat on the Senate Budget and Appropriations Committee, addressed the distinguished panelists and guests at a Luncheon. Senator Kenney discussed the implications a flat tax would have on the New Jersey State budget and New Jersey taxpayers.

The two panels were asked to discuss the same issue: The Viability of The Flat Tax. The difference in composition of each panel, however, provided starkly different viewpoints on the topic.

BIOGRAPHIES OF SYMPOSIUM PARTICIPANTS

J. KENNETH BLACKWELL

Ohio Treasurer of State; Commissioner, National Commission on Economic Growth and Tax Policy; former Ambassador to the United Nations Commission on Human Rights.

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Associate Professor of Law, Seton Hall University School of Law, teaching Individual Tax Law, Corporate Tax, Partnership Tax, State and Local Tax and Tax Policy; Former Associate, Fried, Frank, Harris, Shriver & Jacobson.

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SHELDON FRIEDMAN

Economist, American Federation of Labor and Congress of Industrial Organizations; author, "THE FLAT TAX: IF YOU'RE NOT RICH, IT WILL FLATTEN YOUR WALLET."

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Associate Professor of Law, Seton Hall University School of Law, teaching Taxation; Former Tax Legislative Assistant, U.S. Senator John C. Danforth; Former Manager, Washington National Tax Group of Arthur Young & Company.

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New Jersey State Senator, Ranking Democrat, Senate Budget and Appropriations Committee; Member, Senate Joint Budget Oversight Committee; Member, Senate Women's Issues, Children and Family Services Committee.

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Economic Policy Advisor, Congressman Richard Armey, handling tax, budget, regulatory, trade and agricultural issues, including Congressman Armey's flat tax proposal.

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Director of Tax Policy, Citizens for a Sound Economy, spearheading the organization's efforts to promote the flat rate federal income tax system.

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