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THE PROTECTION OF AVIATION FROM INEQUITABLE TAXATION*

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The subject of this paper is "The Protection of Aviation from Inequitable Taxation," and I shall do a most unusual and unique thing at the very beginning of the paper! I shall give you what I regard as being the answer now, and not wait until the summation of my observations. The answer is that the greatest force there is to protect aviation from inequitable taxation is the National Association of State Aviation Officials. Through your membership, you gentlemen are the most potent and influential group in the whole country in correctly steering legislation that might adversely affect aviation. I hope to develop that statement to a point where you will agree with me.

I went to the dictionary to get the exact definition of the word "tax." I always had a vague idea what the word meant, but coming before such an austere group as this to present certain thoughts and conclusions, I felt it would be better to make sure of the meaning of the word in order that I would not be taken to task for stating things that have no relation to the subject matter. Funk & Wagnalls Standard Practical Dictionary defines tax, when used as a noun, as "(1) a compulsory contribution levied upon persons, property, or business for the support of government; any assessment; (2) a heavy demand upon one's powers or resources." When used as a verb, the word means "to subject to a severe strain," and I think this really fits the case. Were it not that I have been assigned a definite subject, I am inclined to think I would use the latter definition as my subject. I could bore you long with such a theme.

We all want to be good and useful citizens, and I prefer to think of taxes as defined by that very, very great Associate Justice of the United States Supreme Court, the late Oliver Wendell Holmes. He said, "Taxes are the price civilization pays for progress." If we could but keep taxes for that useful purpose then there would be no need of this paper. But, alas, it is not so! So, let us examine the record.

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I said earlier that taxes were a compulsory contribution levied upon persons, property or business for the support of government. Aviation is a business, hence taxes are directed against its property as well as its personnel. This list of such taxes is much too long to name individually. It will be sufficient to say that sales taxes, use taxes, the so-called nuisance taxes and gasoline taxes comprise the levies that affect the personnel. It is indisputable that the above named taxes greatly increase the cost of living, and, as a consequence, higher wages must be paid thereby increasing the cost of operations. But, I suppose the boys and girls must be taken care of, and the easiest way to take care of them is to create a political job for them. This has been increasingly so since "rugged individualism" has become passé. That statement may sound as though there were a peeve back of it, but I will wager that every member of this group has been exasperated beyond adequate curses by having had to consult a half dozen different officials to receive an okay on an item that any one mediocre man could have attended to and still have had time for a baseball game.

This air transportation business is not so large or mighty that it requires legions of "looker-afterers" to mind its operations for it, nor would all the money in dollar bills raised by the taxing of all its properties reach from Podunk to Sleepy Eye, if the dollar bills were elastic.

Let us examine this air transportation business for the year 1936. The total income of the nineteen scheduled air line operators in that year, from all sources, was a bare \$38,500,000.00. To obtain that income, those operators transported 1,020,931 passengers, carried 6,958,777 pounds of express and 17,706,159 pounds of mail. They had to fly 435,740,253 passenger miles to carry those passengers, and they kept their planes 64.01% loaded to do it.

It took about \$18,000,000.00 worth of ground and flying equipment to do the job. These figures are from a pamphlet issued by the Bureau of Air Commerce called *Aeronautics Bulletin No. 1*, and dated August 1, 1937.

This income figure of \$38,500,000.00 to most of us is a very great deal of money, and think of the investment and effort to get it! Yet, compare it to other lines of business. The 1936 Statistical Abstract of the United States says that it is just slightly more than half the value of the chewing gum produced in this country in 1933. Now, in 1933 the value of the rice crop was practically the same figure, and it is but twice as much as the value of the handkerchief business in 1933. It is about the same figure

as the value of the printing ink produced in 1933, as well as about the same value as leather gloves and mittens produced the same year. Even the button business amounted to better than \$38,000,000 in 1933, and one of the things closest to us, union suits, had approximately the same value that year.

When I stand here before you and tell you that we are a small struggling business, I am telling you a fact. When I plead that we cannot be ham-strung with innumerable inequitable taxes, I am in earnest, for as surely as they are piled on us it is that sure we will sink. To be sure, this country will always have some one popping up and discovering aviation and offering a so-called super-service of some kind. Please note that our line between San Francisco and Los Angeles has had no less than seventeen competitors since it was started a little more than ten years ago. That ought to make it a 1 to 17 shot that this business must be treated kindly and with consideration, that is, make it possible to build up reserves for replacement of equipment and expand its operations, if it is going to materialize to a point where it will maintain its place among the permanent forms of transportation.

The gasoline tax is the Number One Aviation Enemy Tax. It is the most insidious, unjust, discriminating, inequitable and unfair of all taxes. I wish there were more adjectives to describe it. There is not a logical reason for this tax, and I am going to prove the statement.

First, let us review the number of states that tax aviation gasoline. Nineteen states are in the black book. One of them takes some cognizance of the inequity of the tax and makes it half of the tax on highway motor fuel. Four states retain a cent a gallon, and one state refunds half of the tax after 10,000 gallons have been purchased. Four states take a portion of the tax and support aviation commissions. Now, as far as United Air Lines is concerned, and I believe the statement I am about to make will hold for every other progressive air line, we are not opposed to a reasonable tax on aircraft fuel when the proceeds go to the support of a State Aeronautical Commission or a similar bureau. However, we in the business of air transportation have nothing short of the greatest admiration for the President of this organization who instituted and maintains one of the most efficient existent state aeronautical bureaus, and he has convinced his State Government that it should appropriate a budget for his bureau the same as it does for other state agencies. His state, I am proud to say,

does not tax aircraft fuel. Gill Robb Wilson is to be congratulated for this constructive attitude.

The Aeronautics Bulletin Number 1, mentioned before, stated that the Scheduled Air Line Operators consumed 37,057,069 gallons of gasoline during 1936. The Federal Government collected \$370,570.69 from those operators as aircraft fuel tax. That sum of money is equivalent to the operating cost of a transcontinental DC-3 round trip schedule for 3.6 months. Let us look at it from another angle. The average tax rate on motor fuel for the 48 states approximates 4.5 cents per gallon. If all the states had collected on aircraft fuel at this rate last year the air line operators would have had to dig up \$1,667,568.06, or the cost of operating a DC-3 transcontinental round-trip for 16 months. Thus, the public was denied that service, and we will all agree that the sum collected barely affected the financial situation of the Federal Government or the several states that make up this nation.

Twelve of the nineteen states taxing aircraft fuel levy the same rate as that used in automobiles, trucks and busses. Since airplanes do not utilize culverts, bridges or highways, no benefits whatsoever accrue to aviation from the fuel tax in these states. The other seven states recognize it is unfair to tax aircraft fuel at the same rate motor fuel is taxed, and retain but a portion of the tax which in several instances, as stated previously, goes to the State Aeronautical Fund.

The unfairness of requiring the same amount of tax on aircraft fuel as on motor fuel can best be illustrated by comparing the performance data of an average transport plane with that of an average passenger bus. The illustration is made between a thirty-passenger highway bus, powered with a 150 horsepower engine, reputed to travel about ten miles for each gallon of fuel consumed, and a fourteen passenger air liner powered with engines developing two thousand two hundred horsepower and flying about two miles for each gallon of fuel consumed. Thus, the airliner consumes five times as much fuel as the highway bus to transport 7/15ths as many passengers an equal distance.

Or, look at it this way: Assuming both transportation units were loaded to capacity, the bus operator can carry thirty passengers ten miles on one gallon of fuel, while the air transport operator would have to use three planes and burn fifteen gallons of gasoline to carry the same number of passengers the same number of miles. Hence, we have tax load ratio of 15 to 1 unfavorable to the air line operator. Is there a single one present who can justify that ratio?

Because, if you think you can, consider this first—aircraft fuel consumed is not related to the use scheduled aircraft may make of any facility which has been provided by a state, because the aircraft operator pays his rent and use fees on every municipal and county airport he uses, and the airport operators present well know ninety-nine per cent of the airports existent today would fold up were it not for the fees the scheduled air line operator brings to them. And, that brings to mind another thought; some of the states that tax aircraft fuel have an aeronautics commission which is supported in whole or in part by this tax. Such state commissions devote practically their entire appropriations to the development of private flying, although the scheduled air line operator usually pays from 85% to 95% of the tax. It then can be said that the scheduled air line operator is subsidizing the private flyer. Hence, the private flyer should look upon the air line operator as a big brother. Other states allocate this tax to numerous purposes, such as roads, relief, bridges and schools. This is obviously unfair. Such states are greatly retarding the development of aviation despite much flag waving of the governing officers that they are doing all in their power to promote aviation within the state. Would you go where they unjustly discriminate against you?

Now, you gentlemen are aviation minded, or you would not be here. Your President has asked that I make an indication of how aviation might be protected from inequitable taxation. You, who come from those states levying this unfair tax on aircraft fuel, go back to your state legislatures and fight shoulder to shoulder with the air line operator to overcome this grossly unfair tax. You have influence at home; you want aviation to grow and thrive in your state—then, help to remove this discrimination against the industry. That will be an earnest indication of your desire to further the cause of aviation.

The most devastating of the national tax laws are the undistributed profits and capital gains tax laws. It is not that the air transport industry has, nor is it likely to have, any large amounts of undistributed profits on hand for some time to come, but most of the companies are now at a point where the end of the operating year sees them with a slight surplus on hand. This surplus will undoubtedly increase when just air mail legislation is enacted. These taxes penalize thrift and introduce practices contrary to conservative financial practice. They cripple the ability of corporations to withstand depressions. Without reserves accumulated in profitable years, corporations necessarily must reduce payrolls

and pass dividends, not that we pay many or large dividends, during depressions or acute business decline. Thus, active and healthy business, instead of contributing support to the Nation during business decline must also join the parade of the retrenchers, and business becomes more ill instead of assisting in recovery.

Again, your Association can contribute not only to the aviation industry but to all industry as well if you members will help convince your national legislators that these tax laws must be either changed or erased from the statute book.

Sales taxes, use taxes, excise taxes, license taxes and miscellaneous taxes of their ilk probably will be with us, like the unemployable unemployed, always. The concern we should have is that their rates are not raised, nor other taxes of a similar guise be put on the statute books to further bedevil and burden the industry. Every state official can be on the alert at the sessions of his own legislature, and besides using his influence can warn the operator of the proposed taxes so that the operator can assist him in preventing their enactment.

There is one more thing in which your Association can be most helpful. While it is not a tax problem, it is directly connected with taxes as it is the basis for fixing the sum to be paid on property. Without a doubt, one of the most perishable things in the world is an airplane. Not because it is not engineered with the best obtainable talent; not because the finest material doesn't go into it, but because obsolescence overtakes it. Let me illustrate: United started to fly the Chicago-New York route a little over ten years ago. In that time, we have completely changed equipment six times, are going into the seventh, and within eighteen months we will have changed again. Eight times in twelve years! Why, you ask? It is because of the incessant demand for planes of greater payload capacity; because of the demand for an increase of speed; because of the need for greater comfort for the passenger, and because of the later development of safety devices.

What did we do with the obsolete planes? We sold them where we could for what we could get for them. We sold trimotored Fords that had been in service for only two years for \$3,500.00 each, and they stood us close to \$80,000.00 new. Unless an assessor or a tax commission understands this problem, he will demand 60% to 80% of the first cost, even though the "tingoose" has been plucked of all of its feathers, and has been in the hangar, unlicensed, for two or three years. I well recall one case where we had four Boeing 40-B-4 airplanes (how many of you

remember that plane?) stored in a hangar. They had not been licensed for two-and-a-half years, yet the assessor wanted to put a valuation of \$16,500.00 on each plane. It cost us \$425.00 in a suit against the county to convince him otherwise.

On the whole, most tax commissions and assessors are now reasonable. Once the matter is put before them they grasp the correct side of it, and treat us fairly. But, in those instances where there are complications, the expert testimony of your members will do much to alleviate the difficulty confronted in arriving at a proper valuation figure.

In closing, I reiterate the statement I made in my opening paragraph, "The greatest force there is to protect aviation from inequitable taxation is the National Association of State Aviation Officials." I know you want to be helpful, hence we are going to call for you when we need your help, but I hope we will not be compelled to take too much of your valuable time away from your own greatly important duties.