

MIGRATION AND TAXATION IN THE POPULAR IMAGINATION

MONTANO CABEZAS*

INTRODUCTION

Taxpayer attitudes and beliefs are arguably as important as any economic analyses are when trying to understand a tax system.¹ There is an even greater incentive to care about taxpayer perceptions in countries using tax systems that operate on a voluntarconceptions of laws affecting taxation? And, if government should respond, what is the best forum for doing so?

This Essay will examine these questions within the framework of popular attitudes regarding issues at the intersection of taxation and migration. There are at least three reasons to care about issues that occur at this intersection.

First, how migrants are taxed touches on the concepts of source and residence—two foundational aspects of who and what form part of the tax base. The phenomenon of migration forces society to think about taxation from an international perspective, which results in a much different conversation about the normative foundations of tax policy choices than one that focuses solely on

* B.C.L./LL.B., McGill University Faculty of Law (2014). Graduate Tax Scholar and LL.M. in Taxation, Georgetown University Law Center (2016). Special thanks to Allison Christians, Leandra Lederman, and the participants at the Sanford E. Sarasohn Conference on Critical Issues in International and Comparative Taxation II: Taxation and Migration (Saint Louis University School of Law, Mar. 31, 2017) (“Sarasohn Conference”).

1. Young-dal Song & Tinsley E. Yarbrough, *Tax Ethics and Taxpayers Attitudes: A Survey*, 38 PUB. ADMIN. REV. 442, 442 (1978) (“Abstract economic analyses are undoubtedly important to an understanding of tax systems, but of equal importance in a democratic system is the taxpayer’s perception, evaluation and compliance with the tax laws.”); *see also* VITO TANZI, POLICIES, I

of lower-income individuals coming into the United States as immigrants, refugees, or as unauthorized workers.

I first wanted to survey as many news media reports as possible on these three issues. I restricted my searches to articles published within the last five years not only to ensure that my findings reflected current popular discourse, but also because people interact with media today in a manner that is both more personal and public than in the past due to the growing importance of social media in the public's consumption of news.⁵ Because of the personalized experience and often members-only nature of social media, a comprehensive, unbiased survey would be next to impossible, and I did not attempt to include commentary directly from social media in my survey. I have, however, taken into consideration the effects of social media on news stories to the extent that such effects are referenced within traditional news sources.

Using google.com (as opposed to another country's version, such as google.ca or google.fr), with private browsing settings engaged to avoid having my past search history influence my findings, and using U.S.-based ISPs, I searched variations on "corporate inversion news tax," "leaving U.S. tax FATCA," "undocumented immigrants workers tax," and "refugees tax U.S." I performed similar searches using U.S. and Canadian versions of Google News, as well as NewsDesk, which is a Government of Canada news database. I determined relevance by both reading search summaries and by noting if the result was published by a news organization (as opposed to, for example, an academic or trade publication).

My search yielded the widest volume and variety of articles on corporate inversions and unauthorized workers, which form the first two case studies in this Essay. I discarded the idea of studying individual expatriates because I believed that there was insufficient coverage of this phenomenon. My use of the NewsDesk and Google News Canada databases, however, unexpectedly alerted me to a third event that had both significant coverage and touched on issues relating to migration and taxation—that of Syrian refugees in Canada—which

benefit of this kind of migration is that a corporation can permanently avoid paying a relatively high U.S. corporate tax on income earned in non-U.S. jurisdictions.⁷ Concerning this phenomenon, there are two academic schools of thought. The first is that U.S. companies are essentially forced into inverting because of competitive

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high effective rate of tax on income earned in the United States. Instead, I found
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C. Costs to Taxpayer: Syrian Refugees in Canada

Finally, the popular discourse on immigration and taxation has concerned itself with the public cost of taking in refugees. Shortly after his election in

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or debatable) between an individual coming to one's country and obtaining the benefits that it offers, potentially without contributing a fair share, that is not present in the case of a corporate entity leaving.⁴²

My second case study on the tax treatment of unauthorized immigrants demonstrated unexpectedly positive practices. While I had assumed that the nature of coverage of this group would be largely dictated by political preferences, as with the coverage of corporate inversions, I instead found a general trend of media wanting to accurately represent the contributions to the public treasury made by this marginalized and vulnerable group.⁴³

This case study is potentially indicative of how media portrayals can influence law. With respect to taxation, researchers have shown that the social context of taxpayer behavior is relevant. For example, the more taxpayers are perceived to be honest, the more likely people are to pay taxes,⁴⁴ and that

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The third case study of Syrian refugees in Canada, however, offers what I think is the most interesting example of the power that governments could use to positively affect social perceptions in otherwise politically contentious situations. In this case, the government took Tons7.8(nt)5.3(s).5(S7(AR)1-11.1(,)0.s.5(w)1.1)5.3(t) e5(n)5.2

and email was arguably necessary as the Canadian intake of Syrian refugees was a key point of the Trudeau government's brand⁵³ and was also directly opposed to that of the former government.⁵⁴ Further, the lead-up to the 2015 election was marked by an appeal to nativist politics by the incumbent Conservative government, the most obvious example of which was the passing of legislation entitled the Zero Tolerance for Barbaric Cultural Practices Act.⁵⁵ This legislation called attention to crimes, already prohibited by general criminal law, that were often associated in popular discourse with persons from the Middle East and the Indian subcontinent such as forced marriage or defenses related to honor killings. During the election season, the incumbent Conservative government additionally promised to implement a telephone hotline where persons could report those suspected of such acts,⁵⁶ despite the fact that the

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account with 142,000 followers.⁶³ This suggests that the Canadian government either made a strategic decision not to link to the notice via social media, or simply lacked the coordination to allow the official government statement and its social media activities act in concert.

In the U.S. context, @IRSNews, which provides “IRS news and guidance for the public, the press and practitioners,” has over 90,000 Twitter followers.⁶⁴ Similarly, @USCIS, the “Official Twitter Channel of the U.S. Citizenship and Immigration Services,” has 109,000 followers.⁶⁵ These numbers arguably show that the infrastructure and audience are already in place for the use of a content-distributor/troll-facilitator strategy. Thus, if direct government intervention through social media is not practical, at the very least governments can change their social media habits so that they provide accurate information in a manner that can easily be used by others.

III. COMMENTARY AND RESPONSE TO POTENTIAL CRITICISM

Public confidence in democratic institutions is arguably declining.⁶⁶ At the same time, the current multitude of information sources combined with the ability to consume only media that fits one’s worldview means that a person’s conception of the state, political actors and institutions, and law may be easily manipulated by misinformation. A tenet in much American legal education is that there is no such thing as “the law.”⁶⁷ Today, there additionally seems to be no such thing as the truth.⁶⁸ I would add that this seems to become truer the more contentious the issue.

How should lawmakers respond? Scholars have noted that public opinion is important and influences legal structures,⁶⁹ and that law, in order to maintain

legitimacy, must “respect the ‘instincts’ of its subjects.”⁷⁰ The U.S. National Taxpayer Advocate, Nina E. Olson, characterizes taxation as a gateway for government interactions.⁷¹ In

@USCIS writes “Daylight Savings Time starts today. Don’t be left in the dark – learn about the naturalization process”⁸⁰ or “The Wrong Help Can Hurt: watch this video to learn more about being aware beware of immigration #scams.”⁸¹

There are, however, more effective uses of this medium, and it makes sense for governments to explore the possibilities. For instance, while agencies typically provide seasonally relevant information, they almost never interact with individual users beyond a simple “like” or retweet. Governments should recognize that what distinguishes social media from traditional formats is the potential for interaction among users, and that the most powerful forms of social media communication are through active interactions and not mere passive dissemination of information. Accordingly, it would be helpful if, when appropriate (i.e., in a public conversation, concerning an important issue, and where there has been egregious misrepresentation), government engaged directly with social media users.

A potential problem with my recommendation that law and policies be clarified in the popular sphere is that such clarifications could easily turn into propaganda. During the 2003 Iraq War, the Bush administration was apparently “nearly as preoccupied with how the combat was portrayed as with the combat itself.”⁸² Currently, the Trump administration seems to have a tendentious relationship with facts and often appears to comment on laws and policies in a way that confuses, rather than establishes, the truth. As I mentomt58(nt)5.3(1)-6.1(s56 17440.8(r)14.8()0.6

political preferences. All taxpayers have an interest in ensuring that their government's laws and policies are accurately represented. Even if one does not agree with those policies, I argue that it is nonetheless valuable for a government

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