



Tax Policy

FRED GUCCI, PART 8

Michael Parish

“THESE TAXES ARE KILLING me, Fred!” Gary hated to say it, but that was how he felt. The big juice had started to come his way, so he was writing estimated tax payment checks every other minute. That was aside from the other items he was covering – business, the new apartment, the new charity he’d set up – the list was endless. “I like being busy, but this feels like I’m strapped to the Wheel of Fortune and every time I look in Vanna White’s direction I just get dizzy instead of turned on.” It was his turn to buy, so he wanted to appear expansive, but was feeling fiscally cautious, lunchwise.

“Franchise tax, sales tax, occupancy tax, payroll tax, gross receipts tax,” he continued. “Unincorporated business tax, transfer tax, property tax, and after that, income tax. Tax on so-called net income, but how could it be so net if they took so much with these other taxes?” He surveyed Gucci and thought about the first time they had met, in Fred’s office, and eaten corned beef and pastrami specials from the deli downstairs. It was clever of the restaurant owner to call the place Research

Associates. From the tax deduction point of view, the difference between lunch and consulting advice was 50%, we know that much.

“To tax is to live. Especially when you’re doing the taxing, right?” Gucci peered over his glasses and waited for Gary to respond to his non-response to Gary’s question. A poorly formed question, to be sure. State your complaint and preferred relief.

“Where does all that money go?” Government felt like another layer of the management he had done his best to escape from. He was in business, for himself and now with a partner – partners – and every time he turned around he was paying another bill that had the government’s name on it.

“The first American tax rebellion was the Whiskey Rebellion,” Gucci said. “Hamilton’s excise tax on whiskey. Put a high tax on socks and shoes, for God’s sake, but don’t tax my jug. That didn’t last. Washington sent the troops – George, that is – and taxes began in earnest. He pardoned the instigators of the rebellion, one measure of his greatness, especially against our current DC management. Shays’ Rebellion was the same at the state level. 1786

Michael Parish is a long-time taxpayer. He has never seen a deduction, tax credit or exclusion he did not like.

dash 7. The banks in Boston got the legislators to increase taxes on land, to replace commerce taxes. That happened to cause a lot of farmers to lose their farms, which the banks bought up and made substantial profits on. Doubtless there was collusion in the bidding at the tax foreclosure sales. Shays and others went into armed revolt, lost the battle but won the war, got the governor thrown out and helped get the Constitution adopted in Massachusetts. The hope was that the federal government would control that kind of nonsense. Shays got pardoned too. So you stand in a long line of Americans who have this point of view. How do you think they would like our Patriot Act?"

They ordered mineral water and wine and looked first at each other and then around the place. The hubbub was good. You take your economic forecast off TV? Go right ahead. Gary took his off the frequency with which this restaurant hubbubbed. Along with how long it took to get a cab at certain key intersections in Manhattan. No downside here, he thought. He took a second scan to make sure he wasn't just telling himself what he wanted to believe.

"So business is bubbling," Gucci said, "Felix tells me you guys are knee deep in money – not yours, but good for skin conditions and conditions of the wallet. Soothing to wade through, correct?"

"If I could find time to think, enjoy my life and stop writing these goddamn checks to the government, yes, by and large."

"You acquired a thing. Of value. People are interested both in valuable things and in those who can acquire same successfully. People will be curious, not to say insistent."

"The taxman first and foremost, I'm sure," Gary started to harrumph and then caught himself in time to see the glint on the edge of Gucci's new glasses. "Fred, when did you start wearing glasses? Did I ever see you in

glasses before?"

"Business expense," Gucci said. "Clear glass. Totally deductible, not subject to limitations like medical if they were real. Sometimes you need to look a certain way. Glasses are now part of that. Retro but flexible, and who can tell if they're real or just a prop? On the government, as it were. Uncle Sugar as some people have good reason to call him. Sugar Lips, Sugar Daddy. Depends on who you know. Next question? Sugar contract."

"I hate to sound stupid, but I can't keep up with myself. Nobody knows what's in my head about how everything fits together, everything is evolving at more and more of a rapid pace, and I'm paying all these frigging tax bills every time I turn around or look at my inbox!"

"Plan more, pay less, possibly," Gucci responded. "Records and receipts are helpful. Taxpayers qualify – a key word – for tax benefits. Hey, you were a qualifier the first minute you came to see me and I chose you as a client. Did you think you were choosing me, by the way? Did you? But you have to break your little sweat at least once in the process. That's the standard of evidence. You have a good accountant? I can give you one, believe you me, but it's good that your accountant and I don't know each other on a regular basis. Permits freedom of argument if they start sending in the ICBMs."

"How dated are you?" Gary laughed. "ICBMs?"

"You asked earlier where the money went. It goes to protecting us against things that no longer exist, or didn't and still don't work. They still fund Star Wars from Reagan's time, and there's no chance that will ever be an operational system. Calculate the billions collected from you and those like you, Gary. Or hopefully those unlike you, in that you will reduce your subsidy of that set of addictions in favor of following a better path."

“Which I do how?” The waiters brought the first courses, oysters as always for Gucci, grilled asparagus for Gary.

“Everything you do is deductible, Gary. Plain and simple. Open and shut. You’re in business and you devote your energies to business and even when we could be talking about how good the Jets could be looking if they had a quarterback and a coach, you’re hammering away at me with questions about business and hoping my kid, a.k.a. Felix, your minority partner, doesn’t get married too soon, because you know you will have to come up big at that point in time. As you always do, to be sure. But said gift will only be deductible to the tune of \$25 unless you structure or characterize it in a different way. Taxthink, I call it. You hire Felix for a consultation and let him take the money to choose a gift he’ll actually want, instead of getting a silver nut bowl with squirrels for handles. That allows the entire amount of the gift to become deductible. Probably there’s a depletion allowance for the oxygen you breathe as part of the recent clarifications of previously well understood environmental policy, if you check into it. I don’t do that kind of work.”

“Sounds like you have a fair handle on it, though, Fred. Why do you say you don’t?”

“I mean I do it but I don’t. Good legal answer. Are you trying to solve the problem or are you gaming the gaming of the game? I can, and do, either – but what do I prefer? Solving the problem, obviously. My mentor clerked on the Supreme Court for a man who later became Chief Justice. He walked into Oliver Wendell Holmes’s study one day in the course of business and there was the great man, a tall stack of petitions on the table next to him and three stacks on the floor on the other side. My man asked him to explain his system, which was simple. The small pile was the interesting cases, as he thought of them, the largest pile the collection of the

frivolous, required by statute, marginal, or simply out-of-ideas-and-options flyovers with empty guns. “That third pile there is the tax petitions,” Holmes said. “I suppose a reasonably intelligent man could make some sense of them in the end, but in my opinion he’d be a damn fool to put his energy in that direction. I don’t read them.”

“Wasn’t Holmes the one who said he liked to pay taxes because that’s how he bought civilization?” Gary remembered that from somewhere.

“Which shows how much he didn’t know about the course of civilization. No, tax policy is a primary way to dive into everyone else’s pocket to find the money to repay the people who bought your – say presidency for lack of a better word. Why else would people throw in that kind of money, other than in expectation of profit on their ‘investment?’ Have you noticed, by the way, that budgets for government activities like the SEC and the IRS and OSHA get smaller and smaller? Not by accident. Elections are expensive! Have you tracked the way that those dollars which aren’t being so spent, because they’re not being collected anymore, or at least these days, tend to drift like iron filings to the magnets represented by large contributors? But it’s not bribery, it’s statecraft, according to our self-proclaimed betters.”

“That doesn’t help me, Fred, and besides, I’m a capitalist for sure now. My own business, excellent money, perks ...” In the sudden moment Gary felt a little too big for his suit. Fred was back behind the glasses, as it would appear. It had been unusually long since he and Fred had spoken or met. For no reason he could think of, he remembered how much more you learn with your mouth shut than open, and how much less evidence you leave to be “reconstructed” according to a pattern that could, more likely than not, be difficult to prove untrue if the government

was on the other side. The hubbub continued to build, but you never knew who was listening. Gary saluted Gucci with his wine-glass and leaned in his direction. Only one Fred. Only one.

Fred smiled. "One of the things you learn first semester in law school is the importance of the word 'not.' A small word which has now found its way into the language as a complete response to any assertion or claim. Also a word that can sneak in and turn a proposition on its head. As a practical example, take speed limits. Sign says "Speed Limit 55." Not. No one ever gets a ticket for going 65. The law is practical in its application because it's administered by humans, who live with themselves only by applying the concept of margin of error. 'To Err is human.' So if you take Holmes and say "I like not to pay taxes because that's really how I buy civilization" – you have an operative principle. Holmes himself said the life of the law has not been logic but experience, his other most famous quote, and we continue to experience a devolution where logic gets left behind and emphasis prevails. Which is to say noise level. Watch TV and see if you can abide it, the yelling. Heat, but little light.

"You mention your business. Since the business of America is business, at least until it becomes religion – hopefully not not not – you have all you need." Gucci put his glasses down on the table, tucked the napkin into his collar and mixed some horseradish into the cocktail sauce before spearing one of the large, plump Wellfleets on the platter in front of him. One of the things Gary appreciated about Fred was that he fed you bite-size pieces. People constructing arguments take similar pauses, but generally to work out the next element of where they want you to go. Fred had everything whole, and used his slicing machine of a mind to lay out nice round discs of information like an expert deli man

arranging sopressata on a sheet of heavy waxed paper. His end was his beginning, like the butcher who turned around by his meat grinder and got a little behind in his work. Gary suppressed a laugh in favor of a spear of asparagus and knew he'd just dodged a bullet somewhere.

Having Hoovered up the oysters with efficiency and gusto, Fred turned again to Gary. "So how do you do that? Try going back to what I started with. How do you buy civilization by not paying taxes? By spending your money on things the government gives you, in the name of social policy, the ability to deduct from your adjusted gross income – big word adjusted, like not – as much as you can reasonably claim has a relation to your business. And since you are all business all the time? Example – a former Columbia law prof who was also a partner in a big Wall Street firm once tried to deduct the entire cost of a month's vacation in France because he was thinking about work the whole time he was there. His accountant shot him down, for simple-mindedness, not greed, but by going through the receipts he got a good chunk of it on the government's nickel. It's an open secret. Plus, the richer you are, the more money defines your life, and therefore the more you're all about money and getting and keeping it – totally directly related to the production of income, hence deductible.

"Cell phone, deductible. Computer, deductible, plus software. Nice big car – deductible under the infamous "Hummer" provision of the tax code. Business meals, 50% deductible without limit. If you're a CEO of a big corporation, you pay taxes on about 10% of the economic benefits you derive from unfettered use of the corporate jet. Just like the way SUVs not only hog the road but pollute at an unconscionable level. I saw a Cadillac Escalade with a bumper sticker – 'No War For Oil.' Beat that! Mortgage in-

terest and a big chunk of the maintenance you pay on your fancy co-op – deductible. Everything you read, including books on tape for long car rides to your summer place – deductible because in America it all comes back to moolah. Child care for when the happy event occurs – deductible to a point. Opera tickets, half-off courtesy of Uncle, or if you like baseball, certainly. Professional fees and expenses, including related to tax advice – not even the beginning of the list. If those elements don't add up to civilization, I'd like a better definition."

"It reminds me of a story by that writer Donald Barthelme," Gary said. "It's about a guy named Daumier. Not the artist, the other Daumier. He's driving a herd of au pair girls across the Pampas, being pursued by St. Ignatius Loyola and his hard-riding band of Jesuits. No kidding. Daumier develops a lust for one of the young ladies and Barthelme describes her as having shoulders more tempting than tax avoidance."

"So that's a deductible book," Fred responded. "Avoidance – hell of a writer, that Barthelme – not evasion but avoidance. Two words that mean the same thing in English, but not in law. One is okay and the other is nokay. Sick, right, but that's our tax system. Now, Bush's people want to 'simplify' the tax code, just as they want to provide 'clean skies' so long as more oil and coal is 'consumed,' i.e. burned, and clean water, so long as developers' rights are prioritized. So pardon the expression when it comes to #43, but that's a 'no-brainer.'"

"We are fish in the waters of compliance, Gary, never forget that. Come reason with me further. You want to influence public policy and politicians? That's done with money. You could contribute to a fundraiser, right?

Become what my friends in that game call a pigeon. Or you could set up your own foundation and make the donations to that entity – ta-da – tax-deductible. Then have that entity pay for studies, consulting services, or for fill in the blank on the tax form whatever. Need I say you could start your own church? But if you do I'm not your lawyer anymore. Every once in a while there's a principle you just can't untangle from your sense of self – you know what I'm saying?"

"What about a center for holistic healing and recovery?" Gary asked. He giggled again, the thing about the butcher getting behind in his work.

"You mean your weekend place? Stuck in his thumb and pulled out a plum. Good boy!! Can do, can do, he says that the horse can do – that's Guys and Dolls. I think I could do a very good Nicely Nicely Johnson, originally played by Stubby Kaye. I think you have the groove now, magnifico. You might think about putting Felix and a lawyer you know on the board. It's better if you don't control it, get me? We'll need to have some planning meetings there. I'll bring the wine and Felix will bring dessert. I think we've done enough to establish your entitlement to deduct this lovely lunch, I'm happy to see the main course coming and I'm sure you won't go wrong with the lobster tagliatelli. Fred steering you wrong is an empty set, correct? Math talk. Stretch the brain! Felix is dating a nutritionist, by the way, and personal trainer. You gotta meet her. Not to mention hire her on a tax-deductible basis because you'll be talking business the whole time you're on the treadmill, if you're half the man I know you are, and documenting it up the old wazoo. Correct? Bien." *JB*