Is an Objective Tax Policy Possible?
Non-normative Tax Theory and Other Tax Ideals

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I discuss a Kantian question, How is an objectively best tax policy possible? I attempt to set limits for all future discussions of tax ideals. This is in response to Douglas A. Kahn and Jeffrey S. Lehman (1992), "Tax Expenditure Budgets: A Critical View," which denies the possibility of an objectively best tax. I discuss three problems with their position, respectively concerning truth-levels, essence, and objectivity. The problems are so intertwined that the Kahn-Lehman position is multiply self-defeating. I conclude with my own account of the possibility and difficulties of an objectively best tax policy.

Every field of study has its philosophical interest. There is a border area in which the philosophical concerns special to a certain field (what is economic value?) merge into general philosophical issues (is objectivity possible?). One may enter such a border area without recognizing it as such, and may even slip unawares into general philosophy. One may arrive at attractive general views in these areas which seem completely convincing, but which have long been found problematic by philosophers.

This is just what happens in the Kahn-Lehman special report. After finding specific difficulties in six tax theories, they proceed to a general view which seems convincing to them, but which involves familiar and probably insuperable difficulties. The six theories are:

(1) *Distortion-free taxation*. This is the theory that no tax should alter taxpayer behavior. Thus for example only goods for which demand is inelastic should be taxed. The aim is to

maximize the freedom of citizens to choose how to live. The problem is that such a tax is too idealistic and will not yield enough revenue in practice.

(2) *Consumption tax theory*. Championed by Nicholas Kaldor, this tax alters taxpayer choices between work and leisure. The problem is that taxpayers can choose to hoard newly acquired wealth.

(3) *Consumption and wealth accumulation (Haig-Simons) tax theory*. This solves the problem with theory (2), but would cost too much to enforce. It also would tax unrealized asset appreciation and other forms of imputed wealth accumulation.

(4) *Realization-qualified Haig-Simons tax theory*. The problem is that the tax is an incentive to "overconsume and undersave, to indulge in too much leisure and not enough work" (Kahn and Lehman, 1992, p. 1662).

(5) *Economic growth-qualified and realization-qualified Haig-Simons tax theory*. This restricts theory (4) to applications which do not harm economic growth. The problem, at least from the federal government's perspective, is that many things we wish to promote through tax policy will not be promoted, for examples research and development, homeowning, and raising children.

(6) *U.S. federal tax theory*. The problem with this theory is that it is based on a whole "basket of normative values" (Kahn and Lehman, 1992, p. 1662), and cannot pretend to be neutral and objective. In fact, the whole series of theories led us down the garden path. "Each is one step further from the Garden of Eden of distortion-free taxation" (Kahn and Lehman, 1992, p. 1662).

Kahn and Lehman present themselves as looking down on all other tax theories from a

higher level, seeing through all sorts of postures. They find weaknesses in all the theories they discuss. They then infer not only that (i) there *is* no true theory, but that (ii) there *cannot* be a true theory. They even infer that (iii) it is *unintelligible* to ask for a true theory. They conclude, "An ideal [Platonic I]nternal Revenue Code makes no more sense than an ideal Environmental Protection Act or an ideal Penal Code" (Kahn and Lehman, 1992, p. 1661).

All three of these inferences are fallacious. That there <u>is no</u> true theory because <u>these six</u> are not ideally and perfectly true--or are even false--is a hasty generalization. The further inferences of *cannot* and of *unintelligible* from *is no* wrongly infer logical impossibilities from a logically contingent fact (assuming it is a fact at all). On the Kahn-Lehman approach, any field six of whose current theories are not the ideal and perfect truth (or are even false) is automatically devoid of a subject-matter.

Inference failure is a negative difficulty. That is, even if conclusions (i)-(iii) do not follow from the premiss that theories (1)-(6) are false, conclusions (i)-(iii) may still happen to be true. I therefore proceed to discuss three difficulties which show that conclusions (i)-(iii) are positively problematic.

1. Truth-levels

Theories of logical type-levels have been widely discussed in this century as a means of avoiding paradoxes of self-reference, beginning with Bertrand Russell's type-hierarchy of classes and flowering into Alfred Tarski's theory of truth-levels.[1] For my purposes, it will not be necessary to assume that any such theories of logical types are true, since I will merely be pointing out versions of the paradoxes which give rise to them.

Almost every undergraduate philosophy major is familiar with Russell's Paradox. Is the class of all classes which are not members of themselves a member of itself? If you assume it is, then by definition it is not. If you assume it is not, then by definition it is. Russell's solution was to regiment classes into type-levels such that no class is a member of itself. Members of any given class are always of a lower type-level than that class. Similarly for the ancient Liar's Paradox. Epimenides of Crete said that all Cretans are liars. If you assume he was telling the truth, it follows he must have been lying. If you assume he was lying, then he must have been telling the truth. Tarski regiments statements into truth-levels such that no statement is about itself. If a statement is about other statements, then it is of a higher truth-level than they are. Such solutions succeed in eliminating the paradoxes, but they also eliminate indefinitely many classes of classes and statements about statements which are innocent of paradox, such as the class of all classes having members and the statement that some statements are true.[2]

Type-levels are typically assigned numbers. Non-classes or non-statements would be level 0. A class none of whose members are classes, or a statement which is not about any statements, would be level 1. A class having no members higher than level 1 classes would be level 2; similarly for a statement which is not about any statements higher than level 1. One may also speak of meta-classes and meta-statements, meta-meta-classes and meta-meta-statements, and so on.

Kahn and Lehman present their own theory as being on a higher level than that of the six theories they reject. If you like, they present their theory as a meta-theory, or a theory about tax theories. Call income items, such as a dollar, level 0. That is the level of the economic real world. Call tax laws about income items level 1. That is the lowest level of talk. Then the six theories about how tax law ought to be are level 2; they are already meta-talk. Since the Kahn-Lehman

theory is about level 2 theories, it is level 3. The present paper on Kahn and Lehman is level 4. If other people discuss my paper, they will be on an even higher level 5.

Mere differences in truth-level mean nothing as to actual truth or falsehood. If any of the seven tax theories is true--meaning Kahn-Lehman's or one of the six they reject--the remaining six will be false no matter what their truth-level. The falsehood will follow from the theories' logical incompatibility with each other, not from their respective truth-levels. We must never confuse being on a higher truth-level with being true, or even with being more likely to be true.

Such "theoretic ascent" often beguiles people into thinking what is true of one level cannot be true of another level, in particular, cannot be true of their own "higher" level. Thus we are treated to the spectacle of Kahn and Lehman diagnosing all theories *but their own* as attempts to give some Platonic Ideal Truth. Because they are on a "higher" level, they think they see through all that. It never occurs to them that they are giving us their own Ideal Truth that *a Platonic Ideal Tax Scheme is essentially impossible*. Indeed, if anything, the loftiness of their level makes them more Platonic than the more earthbound theories they criticize. And an essential impossibility is just as essential as an essential necessity. As F. H. Bradley said over a century ago, "The man who is ready to prove that metaphysical knowledge is wholly impossible....is a brother metaphysician with a rival theory of first principles."[3]

2. Essence

Kahn and Lehman use Plato's name in vain without pretense of Plato scholarship. The Platonic forms they deride are one extreme sort of perfect essence. Other theories of essence may be more appropriate to economics. Physics, whose laws are far more perfect than those of

economics, abandoned scholastic essences for causal theories of microstructure centuries ago. Thus Kahn and Lehman are attacking a straw man. They all but suggest that all the major tax theorists they discuss are expressly committed to Plato's theory of forms. They seem unaware that even Plato abandoned Platonic forms!

Even at the height of his commitment to theory of forms, Plato was pragmatic about taxes as reflecting policy; and the later Plato, though remaining fully committed to objective reason, remained flexible in allowing tax alternatives (Plato, *Republic* 567A, 568E; *Laws* 955D). Perhaps Plato understood taxes better than Kahn and Lehman understand Plato.

"Essence" is a fancy word for an ordinary concept. The essence of a thing is what the thing is. If you deny that things have essences, you are saying there is nothing that they are. You are saying that there are no kinds of things.

Obviously, philosophers offer technical theories of essence, while the word "what" is ordinary. But their theories of essence are just theories of what it is to be a kind of thing. In saying that the essence of a thing is what the thing is, I am not committed to any technical theory of essence, nor to any view on whether an essence is an entity in its own right.

Those who deny that things have essences labor under the difficulty of being able to give any examples. For to say what the example is is already to state the thing's essence, though typically in an initial and theoretically unrewarding way. While the inability to give an example does not imply that there are no essenceless things, it does imply that all the things we can cite as examples have essences, including taxes and incomes.[4]

There is an essence to income. An essential property of a thing is one it cannot lose yet remain the same thing. The traditional test of logical essence is what a thing logically can or

cannot become. It is logically conceivable that Socrates change into a tree, a stone, or even a dollar, as in a magic tale. But we do not know what it would be like for Socrates to change into time, a number, or the value of one dollar. Thus the difference between Socrates and these things is essential. Now, many ordinary things can become income. A dollar or an apple can be paid for a service. But an item of income cannot become the number 2, the color red, or the shape round. The number 2 as such cannot be given or received. Also, income has economic value, which is a normative modality implying essence. The number 2 as such cannot acquire economic value. Likewise for causal essence. If it is logically impossible for the number 2 to acquire economic value, then it is also causally impossible for the number 2 to acquire economic value. Kahn and Lehman show at most that we do not yet understand very well what the essence of income is. And all that entails is that the science of economics is still in its infancy.

Unraveling the essence of income is a complex task. There are some very ordinary paradigms of income. Then there are progressively weaker analogies, and countervailing policies. Thus there are really many parts to income theory, as in any science. Some parts are basic and easy to grasp. Other parts are vague, even problematic. Among those other parts, some may be resolved, and some may be irresolvable. But Kahn and Lehman depict all these parts as a night in which all cows are black (compare Butchvarov, 1989-90, pp. 3-4). And if they totally reject income theory, what sort of guidance can they give--the guidance of the ancient skeptics that since nothing can be rationally known, custom prevails? Should we then never change our taxes?

It may be that the essence of income is something very general, something such as “money or items of value receivable by citizens and assessable by and payable to a government to finance that government’s activities.” If so, then the details of the best tax scheme would devolve not to

the essence but to the accidents of income. This technical point need not affect the objectivity of the question what is the best tax scheme. Accidents are just as objective as essences. Physics investigates many traditional accidents of physical objects such as color, taste and smell. Indeed, accidents have their own essences. There is something that a color is.

3. Objectivity

Kahn and Lehman argue that "an income tax stands inside, not outside, the society that enacts it" (Kahn and Lehman, 1992, p. 1661).[5] But their conclusion, that no income tax can be objectively better than another, is another *non sequitur*. No socially pursued science can be outside society. Is then no socially pursued science better than any other? Is physics no better than political science? No social person can be outside society. Can then no social person be objectively more rational than any other? The *non sequitur* is to infer relativity from relationality.

The problem of relativity is connected to the problem of truth-levels. Kahn and Lehman are committing an old blunder indeed by saying that all things in tax theory are relative, for they thus condemn their own statement as relative. Their statement is but a version of the Liar's Paradox. Their statement must be on two different truth-levels at once, since it is about itself. This compounds the logical difficulties with Kahn-Lehman.[6]

Kahn and Lehman proclaim that tax schemes lack "value-free precision" (Kahn and Lehman, 1992, p. 1663). But they also "presume that some of us...know the answers better than others" (Kahn and Lehman, 1992, p. 1665) and even say toward the end of their report, "We do not believe that all arguments are equally good, or equally persuasive" (Kahn and Lehman, 1992, p. 1665). Apparently the fact that tax schemes lack value-free precision, and the fact that Kahn

and Lehman are reasoning within a society, do not affect their own objectivity.

Compare physics or even mathematics. That scientists have social values, among them objectivity, has been known at least since Friedrich Nietzsche. That objectivity is a value does not destroy objectivity, but promotes it.[7] Ironically, the Kahn-Lehman view that facts and values are inseparable is not only essentialist, but basic to Platonic theory of forms. For Plato, the form of forms is supremely good, supremely objective, and supremely real.

My arguments concerning truth-level, essence, and objectivity also apply to Bittker's view that "a neutral, scientific measure of income is a mirage," and to other views as well (Bittker, 1969; Thuronyi, 1988; Zelinsky, 1991).

Kahn and Lehman portray all tax theories as idealist and morally absolutist except for their own, which they describe as pragmatic (Kahn and Lehman, 1992, p. 1665). But the six tax theories they reject are arguably based on pragmatic considerations, judging from Kahn's and Lehman's own descriptions of the motives for those theories (Kahn and Lehman, 1992, p. 1662). And Kahn and Lehman admit that pragmatism can be an ideal as absolute as any other. They say that the tax expenditure baseline budget "reflects a particular balance among the ideals of efficiency, equity, neutrality, administrability, privacy, charity, and pragmatism" (Kahn and Lehman, 1992, p. 1663). Surely a pragmatic case can be made for every ideal just mentioned. What could be more pragmatic than recognizing such important ideals? I shall not add that the anti-metaphysical pragmatist "is a brother metaphysician with a rival theory of first principles" (Bradley, 1969), since the specific theories of Peirce, James, and Dewey should not be ascribed to Kahn and Lehman any more than the specific theory of Plato should be ascribed to their rivals. But I will note that the Kahn-Lehman single ideal of pragmatism gives little guidance by itself.

One may make a "talismanic reference" (Kahn and Lehman, 1992, p. 1665) to pragmatism as easily as to equity or to charity.

4. Is an objectively best tax theory possible?

In a famous dialogue, Plato makes the elderly Parmenides warn the youthful Socrates always to think both sides of the question (Plato, *Parmenides* 136).[8] That is the heart of philosophical dialectic. The key weakness of the Kahn-Lehman report is that they did not think both sides of the question. If they had, they might have quickly seen that their criticisms apply to their own view. I shall try not to make the same mistake. I look, then, for messages Kahn and Lehman might safely and plausibly convey so as to preserve much of their position.

First, the occupational hazard of thinkers is to become convinced they are right. A second hazard is to oversimplify. No doubt Kahn and Lehman are reporting a righteously toned and simplistic literature. Here their message is one of human limitations, and one Plato conveyed concerning thinkers of his day. One need not be righteously toned and oversimplistic oneself in order to report those things in others.

Second, the considerations may be so many and so difficult that only a model as complex as human society could reveal the best tax scheme for any given place or time. Nor can we conduct tax experiments as freely as good science may demand. Social sciences are soft sciences indeed. This message might be called one of scientific limitations.

Third, there are general philosophical difficulties about essence and objectivity, and about the interface of fact and value, and they affect the foundations of tax theory as well as of everything else. They are not likely to be definitively resolved any time soon. This message might

be called one of philosophical limitations.

I am not persuaded that these three general limits on the discussion of all tax ideals make an objectively best tax policy impossible. Why have taxes at all, if there is no sense in which any taxes ever ought to be collected? But if taxes ought to be collected, can it be that they ought to be collected, but for no good reason? Why have a tax policy at all, if there is no sense in which there ever ought to be a tax policy on how to collect taxes? But if there ought to be a tax policy, can it be that there ought to be a tax policy, but for no good reason? And if there are good reasons, then why should a best tax policy not be possible?

The possibility of an objectively best tax policy is grounded in the nature of reason itself. Attacks on objective reason are always self-defeating insofar as the attacks are objective or rational themselves. Therefore objective reason is always possible on any subject, so far as we can ever rationally tell. In this sense it is always theoretically possible to determine whether there is an objectively best tax policy in any given situation. As Hegel observed, radical skepticism cannot be proved without condemning itself by its own proof.

Ironically, the objective rationality of the Kahn-Lehman critique would be the best guarantor of the possibility of an objectively best tax policy. For if they were right, they would determine that policy themselves. Is the Kahn-Lehman theory any more objectively persuasive than the theories they reject--or is it, perhaps, far less?

Kahn and Lehman could try to show that there are irreconcilable differences among norms essentially involved in tax policy. There is indeed a general question in ethics whether tensions or clashes among norms can always be resolved. But it seems at least as likely that this general question itself can never be resolved. And its investigation is one-sided in that while resolved

tensions are resolved, case closed, in the case of unresolved tensions a resolution might always be just around the corner.

5. The concept of an objectively best tax

I shall conclude by distinguishing the concept of the objectively best tax in a given situation from other concepts with which it might be confused, such as being neutral across taxpayers or being non-normative, i.e., value-free.

It is easy to show that the concept of neutrality across taxpayers is far from clear. Kahn and Lehman also criticize progressive income taxation, which promotes a norm of redistribution of wealth (Kahn and Lehman, 1992, p. 1664). While a flat income tax would be nonredistributive and neutral across income producers in an obvious sense, even a flat income tax is normative in its bias against income producers. A totally flat tax dividing expenditures by the number of taxpayers would be neutral across all taxpayers in an obvious sense. But it would have a proportionally greater impact on the least wealthy, some of whom might not even have the money to pay it, and therefore may be expected to alter taxpayer behavior. We see that no tax theory can capture all our intuitions of neutrality across taxpayers, since the intuitions themselves conflict. We also see that various sorts of neutrality across taxpayers are normative.

Randomly assigning taxes by roulette wheel would be value-free insofar as it is arbitrary, and neutral insofar as everybody would have an equal chance. But it would treat being value-free as itself a value, and would be anything but neutral in its probable impact.

Neutrality across taxpayers is itself an ideal, and paradoxically, so is being value-free. Therefore non-alteration of taxpayer behavior might not be the best test of the value-free nature

of a tax in the first place, or of its neutrality. I distinguish: (i) being neutral across taxpayers, (ii) being value-free, (iii) not altering taxpayer behavior, and (iv) being objectively the best tax policy. Neutrality is the ideal of treating everyone equally. Being value-free is the very different ideal of not imposing any values on anyone. My view is that we should pursue (iv). While (i) and (ii) are arguably negative or prohibitory ideals, (iv) is clearly a positive ideal. However, (iv) can and arguably should subsume (i) and (ii), at least to a great degree.

Applying a standard ethical distinction, we may distinguish the objectively best tax policy from the subjectively best tax policy as follows. The objectively best tax policy is the one which really is the best. It might be knowable only by a supreme being. The subjectively best policy is the one which is best in the light of human reason and knowledge. But even the so-called "subjectively" best policy is an objective ideal, if human reason is objective at all.

NOTES

1. Bertrand Russell presents his first theory of types in (1903), his second in (1908), and his third in (1910). Alfred Tarski's theory is in (1956).

2. For a standard first year logic textbook discussing class-types and truth-types, see Copi (1970).

3. Bradley (1969). The very extremism of Kahn and Lehman recalls Plato.

It might seem that no truth can apply to statements of different truth-levels on pain of violating theory of truth-levels. But certain truths, which Russell called systematically type-ambiguous, are best interpreted as true across all type-levels. For example, all classes of all type-levels are trivially classes.

4. Sartreans are noted for arguing that humans have no nature due to our radical freedom of

choice. The conclusion is too extreme, even as interpretation of Sartre. Ironically, it might be better to say that we are essentially free, if Sartre is right. Even Sartre's nemesis Aristotle, in defining man as the rational animal, would include at least rational choice as part of human nature.

In theory of universals, Gustav Bergmann's "bare particulars" are essentially devoid of properties and essentially mere individuators. They are far from essenceless.

5. Social entities logically cannot change into numbers, and therefore have an essence different from that of numbers. I already gave the example of a dollar. Corporations would be another example.

6. The Liar Paradox has been reformulated as "All statements are false," or even "This statement is false." Compare "Our tax theory is that all tax theories are relative."

Curiously, Peter Davson-Galle attempts to rescue Protagoreanism--the view that all things are relative--by imposing Tarskian truth-levels on Protagoreanism (Davson-Galle, 1991). His idea is that then relativity cannot defeat itself because on truth-level theory, no view can be about itself--including Protagoreanism. I agree that since Protagoras says everything is relative, his view is best paraphrased as systematically ambiguous across all truth-levels. For any truth-level t, Protagoras will say on level $t + 1$ that all truths on level t are relative. But relativity is as self-defeating as ever, since for any truth-level t, the statement on level $t + 1$, "All truths on level t are relative," is itself condemned as relative by the statement on level $t + 2$, "All truths on level $t + 1$ are relative."

7. For Nietzsche, the successful promoting of an excess of objectivity over other important human values is precisely the problem with the scientific type of person (Nietzsche, 1968; Kaufmann, 1968).

8. In this late dialogue, often considered Plato's deepest work, Plato finds insuperable difficulties in his own earlier theory of forms.

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