Forbes

Robert W. Wood

THE TAX LAWYER

Feb. 6 2012 — 5:49 am

Clint Says Manning v. Brady? Think Zuckerberg v. Buffett

With the Brady v. Manning face-off and Super Bowl behind us, Clint Eastwood may be right that *It's Halftime in America*. Whatever you think of the Super Bowl or this year's commercials, that's a nice sentiment echoing Robert Frost. Clearly, we have miles to go before we sleep.

Image via forum.ea.com

For one, we have systemic tax issues before us with huge dollars at stake. And talking dollars today means revealing post-tax return. Today more than ever, tax rates feature into daily conversation.

There's Warren Buffett and his First-Lady-Smitten Secretary Debbie Bosanek. She's paying too high a rate, we're told. Amid talk about her likely salary, it's clear you don't have to make $200K to have a higher tax rate than buffett.

Some claim Buffett pays 17% though it's reported his effective federal income tax rate was just 11%. As for Mitt Romney, his much anticipated tax returns also showed a rate below 15%. Many taxpayers with primarily investment income must be cringing since Obama proposes doubling

Romney's taxes with Minimum 30% rate. An even more targeted possibility: Mitt's Taxes Stoke "Carried Interest" Flames.

The traditional competition over taxes was to pay as little as the law allows. Paying more than required seemed counterintuitive. See Gordon Gekko Tax Moves. Tax lawyers and accountants were (and generally still are) required to lawfully reduce tax bills.

But in taxes today, size matters. Our current national debate doesn't pay homage to traditional notions of lawful and nimble tax planning. Many today must shy away from trying to be tax-savvy or having efficient tax advisers.

You don't ***win*** bragging rights today by having your effective tax rate ***lower***. In fact, it's the reverse. It's politically correct to say how ***much*** you pay and that you would be happy to pay more. So who wins this prize?

Facebook's Mark Zuckerberg seems the ***Biggest of the Big*** with an estimated $2 billion tax bill on his personal return for 2012. See Top Tax Tips From Zuckerberg's Facebook Bonanza. Zuckerberg is in a rarified atmosphere, but it looks arguable that the rate taking the cake is James Ross. He is a founder of Rossrock, a Manhattan-based private investment firm in commercial real estate and distressed mortgages.

Clearly, at 102%, his tax rate takes the cake! That doesn't mean Mr. Ross pays more in taxes than he earns. His total tax as a percentage of his adjusted gross income was 20%. The culprit, we're told, is large itemized deductions, which many high income persons face.

After all, earned income is different from dividends and capital gain, something Congress will be debating when it takes up the anticipated 2012 expiration of the Bush tax cuts, a common target of income inequality. See State of the Union's Taxes: Buffeted Poor. But in our Byzantine system–even turning down pay doesn't avoid taxes–complexity is an art form, and ours is the most complex–and not the best–tax system in the world. See Trump's Tax Trump? You're Fired IRS!

In this topsy-turvy time, Clint may be right. I hope so, but in America's second half, we need a rigorous review of our tax system. We may even need a bigger overhaul than Detroit.

For more, see:

A Response To: "Don't Tax The Rich, Tax The Inequality Itself."

The Top 1.0% Of The Nation Earn Half Of All Capital Gains

Economic Inequality Of Various Shapes And Sizes

The biggest driver of income inequality: capital gains

Mitt's Taxes Stoke "Carried Interest" Flames

New Capital Gain Tax Reporting For 2011 Tax Returns

Bush Tax Cuts–Better By Another Name?

Zuckerberg's 2012 personal income tax bill: $1.5 billion

Robert W. Wood practices law with Wood LLP, in San Francisco. The author of more than 30 books, including Taxation of Damage Awards & Settlement Payments (4th Ed. 2009 with 2012 Supplement, Tax Institute), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.