



# CIVICS IN REAL LIFE

# Federal Income Tax

Civics is all around us. There is a lot to know about the government and how "We the People" interact with the government and each other. Let's help each other expand our civic literacy.

On April 18, 2023 you can take advantage of buy one/get one Krispy Kreme donuts, free Kona Ice, and many other freebies and product discounts from retailers all around the country. Why? It's Tax Day! Typically falling each year on April 15th, unless the 15th falls on a weekend or holiday, Tax Day marks the official day that all U.S. residents, both citizens and non-citizens, must submit their income tax returns to the national government. So, how did the nation that began with the rallying cry of "no taxation without representation" come to have a constitutionally protected federal income tax?

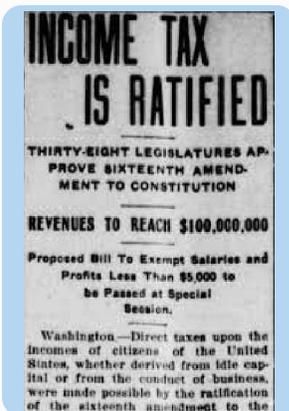


The main source of revenue for local, state, and national governments is taxes. Taxes pay for public goods and services that benefit the nation, states, and local communities. Revenue from taxes is used to pay for things such as: national defense, infrastructure like bridges and roads, national programs like Social Security, public education, and components of law enforcement and the justice system. Paying taxes is considered an **obligation** of citizenship.

Taxes have **played a role** in the American story since its beginning. As British subjects, taxes were viewed as a gift to the government. That gift, however, came with the stipulation that individual citizens had representation in government, their voices were heard on budgetary issues, and the government protected their rights. Accustomed to extremely low taxes in the British colonies, this combination of a sharp increase in taxes after the **French and Indian War**, along with no colonial representation in Parliament, led to the aforementioned rallying cry of American independence.

When the **Framers met in Philadelphia in 1787**, their intent was to correct the problems that existed under the **Articles of Confederation**. One of those problems was that the national government had no power to collect taxes. Therefore, Article I, Section 8 of the U.S. Constitution was written to include, "...Congress shall have Power To lay and collect Taxes,...to pay the Debts and provide for the common Defence and general Welfare of the United States;...". The power to tax is a concurrent power, which means that this power belongs to both the national government and state governments. Because of this, some states have chosen not to impose certain taxes on their residents (New Hampshire has no state income tax or a state sales tax while Florida has no state income tax).

Despite having the power to tax, the conditions under which Congress was authorized was limited by the Constitution. The Library of Congress explains that "**Under Article I, Section 9, Clause 4 and Article I, Section 2, Clause 3, direct taxes are subject to the rule of apportionment. Under this rule, Congress sets the total amount to be raised by a direct tax, then divides that amount among the states according to each state's population. So, a state with one-twentieth of the Nation's population would be responsible for one-twentieth of the total amount of direct tax, without regard to that state's income or wealth levels.**"



So, despite wanting to tax the people directly, Congress was limited in its ability to do so. The U.S. Supreme Court upheld this limitation in *Pollock v. Farmers' Loan and Trust Company* (1895). Here, the Court deemed the Income Tax Act of 1894 unconstitutional because it attempted to impose a **direct tax** on personal income from real estate investments and personal property such as stocks and bonds and was not apportioned among the states.

With this ruling, the only way for Congress to directly tax the American people without apportionment would be through a constitutional amendment. This was achieved with the ratification of the **16th Amendment** in 1913. One of many **Progressive Era** reforms, the 16th Amendment language was clear: "*The Congress shall have power to lay and collect taxes on income, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.*"

Benjamin Franklin is quoted as saying, "*two things in life are certain, death and taxes.*" Many do not like having to pay them, but historically, they have been the only way governments can function and provide public services, so the next time you drive on a pot-hole free road, are attending school, or see a fire engine on the way to assist a family, know that your tax dollars are hard at work.

**To Think and To Do:** In Federalist 54, James Madison defended the powers and limitations regarding taxation outlines in the U.S. Constitution. He wrote "*...it is of great importance that the States should feel as little bias as possible, to swell or to reduce the amount of their numbers. Were their share of representation alone to be governed by this rule, they would have an interest in exaggerating their inhabitants. Were the rule to decide their share of taxation alone, a contrary temptation would prevail. By extending the rule to both objects, the States will have opposite interests, which will control and balance each other, and produce the requisite impartiality.*"

Given Madison's thinking, would you prefer to return to the original method of direct taxation following the rules of apportionment or maintain the status quo. Explain your answer.

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Lou Frey  
Institute