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MONTGOMERY ON THE INCOME TAX

Roberts: Montgomery on income tax

by

Alfred R. Roberts

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Robert Heister Montgomery (1872-1953), accountant, lawyer, educator, and author was one of the recognized, outstanding leaders of the accounting profession for the four decades from about 1910 to 1950. He was one of the founding partners of Lybrand, Ross Bros. and Montgomery, which is currently known as Coopers and Lybrand.

It is doubtful that his formal education went beyond the fifth or sixth grade but he was eventually a major force in accounting literature and accounting education. While working as a public accountant in Philadelphia, Montgomery studied law at night with two lawyers who were his preceptors. He was admitted to the Pennsylvania Bar in 1902 and the New York Bar in 1904. He had no desire to practice law but he did use his legal training to support his accounting practice.

His interest in law was slightly awakened in 1909 when the Payne-Aldrich tariff bill was enacted into law. This bill included a provision whereby corporations would be taxed upon net income in excess of \$5,000. Most accountants felt that the law would be declared unconstitutional and paid little attention to it. However, many found that the wording of the bill would make compliance difficult because it required net income to be determined by deducting from gross income: expenses actually paid, losses actually sustained and interest actually paid. This would lead to a combination of accrual and cash accounting in the determination of taxable income. In addition, it was required that net income was to be computed on a calendar year basis only. This experience started Montgomery on a personal crusade against complicated and unfair general taxation.

His criteria seemed to be that any general income tax should be fair to every taxpayer and the government and yet simple to administer.

The ratification of the Sixteenth Amendment led Montgomery to make many trips to Washington to consult with Cordell Hull, who was very influential in framing the tax bill. Evidence indicates that Hull used some of Montgomery's arguments in trying to draft a fair tax bill. In 1913, Lybrand, Ross Bros. & Montgomery published a sixty-four page booklet entitled, *Income Tax Guide*. The rates were so low that there was little resistance to the tax, and there was little difficulty complying with the tax law. Montgomery felt that the low rates and easy compliance could not last long and he constantly urged the profession to take an active interest in the law and its administration. He noted that the legal profession took no interest in the tax law and had admitted that it was an area for the accountants. He said that this is "where the lawyers lost the trick."

During his career, Montgomery had his name on at least sixty-six books and seventy-five published articles. His early recognition came from his book *Auditing Theory and Practice*. The first edition was in 1912, followed by editions in 1916, 1922, 1927, 1934, and 1940. Editions from 1949 on were by teams of authors but entitled *Montgomery's Auditing*. The 1916 edition of *Auditing* contained ninety-four pages devoted to the income tax. In the preface he wrote:

The income tax has come to stay. Its importance from the point of view of the professional auditor cannot be overestimated. Special skill,

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study, and experience are necessary ought to be, and. . . he has frequent to prepare the returns, and this means that in the future those most occasions to quarrel with the law. conversant with the law and the These are his apparent delight for he rarely misses one. It should not procedures thereunder will be in- be assumed, however, that this leads him to misguide the reader as trusted with the preparation and to the provisions of the law, for these are always correctly stated. But supervision of returns. . . . much that he says is written in such a way as to tempt litigation.

The following year he decided that concern about income tax had become so widespread it would be necessary to bring out a book devoted to the subject.

The book, *Income Tax Procedure 1917*, was relatively small—only 461 pages—and was well received. One reviewer wrote that “it might perhaps be described as a guide to income tax practice in the light of the most recent developments of the art.” He further noted that until the various laws are authoritatively interpreted, Montgomery “has not hesitated to discuss them frankly and incisively, and his comments. . . should be carefully studied by every corporation officer. . . and every accountant. . .” responsible for preparing returns. The book was revised annually until 1929. Other tax related books by Montgomery were:

Excess Profits Tax Procedure. 1920, 1921, and 1941. *Federal Taxes on Estates & Trusts*. 1935, 1936, 1941, and 1956.

Federal Tax Handbook. 1932 through 1940.

Federal Tax Practice. 1929 and 1938.

Montgomery's Federal Taxes on Corporations and Partnerships. 1946 through 1951.

New York State Income Tax Procedure 1921.

Montgomery's writing style was highly readable and often described as colorful. He said what he thought in vivid language which often drew highly critical reviews. One critic wrote:

. . . the author has a very decided opinion as to what the income tax

Montgomery urged taxpayers to comply with the law as written and constantly pointed out many areas, within the law, where there were deductions of which taxpayers were not taking advantage. He was an astute observer who had the ability to view the law, as written, in many logical ways. In his books he informed the taxpayers of these various possible interpretations and how they could be used to reduce their tax burden. It could be argued that his constant legalistic interpretations of the tax law and treasury rulings were contradictory to his criticism that Congress should make the law simpler. While he believed in the spirit of the law, all of his actions seemed to be based on the letter of the law. The tax law and its administration seemed to be a personal challenge.

In 1944, after many years as a critic of the income tax law, Montgomery reflected upon just what he had accomplished.

Before I started this preface [*Montgomery's Federal Taxes on Corporations 1944-45*] I seriously gave myself what is known as the “once over.” Were all those long prefaces year after year worth while? Was I fulfilling some long felt want or was I merely pleasing myself? The conception of Don Quixote or maybe am I a windmill? When we come to think about it (as we seldom do) there must be something in human nature which likes the idea of tilting at windmills, no matter how

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futile it may be when we analyze it
in the cold light of the question,
"What did the Don get out of it?"

The answer must be that when any one has a decent excuse for expressing himself and is believed to be sincere, he will get at least a sympathetic hearing. And that may be all it amounts to. Nothing may seem to come of it. But every now and then a voice crying in the wilderness is heard.

And so I greet you for the twenty-fifth time and ask for a hearing on the subject of the federal tax law. I have never said it was all wrong. I have been criticized for criticizing it. As long as I think it is ninety per cent wrong, I propose to continue to criticize it.

Through the media of his speeches and books Montgomery was able to exert considerable influence on public thinking about taxation and also create a favorable public image for himself. He was probably most gratified when the librarian of Lybrand's New York office wrote to the Government Printing Office to ascertain what recent publications on taxation had been issued, and the following reply was received: "We do not feel that we can give any information to your firm relating to income tax, as we have always thought your Mr. Montgomery was the foremost authority in this country on that subject."

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CALL FOR PAPERS

AN INVITATION:

The Fourth Charles Waldo Haskins Accounting History Seminar will be hosted by the Academy of Accounting Historians, the Georgia State University School of Accountancy, and the Accounting History Research Center on December 1-2, 1989, in Atlanta, Georgia. You are invited to submit a research paper on a subject regarding accounting history for consideration of presentation at the seminar. The theme, "Research in Accounting History: People, Issues, and Trends," permits the inclusion of a number of accounting history topics. Papers on emerging FASB topics (such as discounting and impairment of long-lived assets) may receive preference.

Three copies of your manuscript and one copy of an abstract should be submitted in finished form by September 15, 1989. Authors will be informed by October 15, 1989 regarding acceptance of their papers for presentation. No submission fee is required, however, authors of accepted papers are expected to register and present their papers during the seminar. Papers presented at the seminar will be published in a seminar proceedings. Authors of accepted papers may choose to publish the abstract in place of the paper.

Mail your manuscript to:

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If you have any questions regarding the seminar or requirements for submitting a paper, please call either Al Roberts (404-651-4453) or Elliott Slocum (404-651-4452).