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Inside look at the 1982 tax law: An Interview with Senator Robert Dole

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Robert Dole

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An Inside Look at the 1982 Tax Law

Two major tax laws have been passed in the first two years of the Reagan administration—the Economic Recovery Tax Act of 1981 (ERTA) and the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). To shed some light on the latter, John Connor, national director of tax, talked with Republican Senator Robert Dole of Kansas during a filmed interview in September for Touche Ross's tax seminars. As chairman of the Senate Finance Committee, Senator Dole was a primary architect of the 1982 tax act. In the conversation that follows, which was adapted from that filmed interview, Senator Dole explains the intentions behind the bill and traces it from the early planning stages to the president's desk. He also offers an insight into tax reforms now looming on the horizon.

The 1982 act has widespread implications for both individuals and business. Its origins differ somewhat from that of the 1981 ERTA bill, described by Anthony Hope in the preceding article. The difference illustrates the complexity of the legislative process as much as it does the search for tax equity.

Connor: *Senator Dole, from your perspective, could you share with us the background behind the 1982 federal tax legislation?*

Dole: To give this a little perspective, I think you have to consider what we did in 1981 — passing the most massive tax cut in history—together with what we did this year. When you fold the two together, they make a great deal of sense. This year we changed some of the provisions which were a bit too generous last year. More importantly, we also made some changes that, in my opinion, should have been made over the past several years, such as closing certain loopholes and improving compliance.

We just didn't meet in the Senate Finance Committee and say, "Well, we ought to raise $100 billion." The process doesn't work that way. We were told by the Congress in a budget resolution that it was our responsibility—the House Ways and Means Committee's and Senate Finance Committee's—to raise revenues of $98.3 billion. We had to find a way to do that. Normally, the House Ways and Means Committee would act first. According to the Constitution, revenue measures must originate in the House. Well, let's face it, the House is controlled by Democrats and the Senate by Republicans. There's also a Republican in the White House, and I think, very properly, the House leadership—the Democrats, you know—decided that if the Republicans can't do it in the Senate, why should they attempt to raise revenue? So we had the opportunity, and I think it was also a challenge, to put together a tax package that would pass the Senate.

We started with some of the loophole-closing measures that the president suggested in September 1981. We took a look at pensions, tax compliance, withholding on interest and dividends, and penalties. Just collecting the taxes already imposed would produce $30 billion in tax revenue over the next three years. We believe we ended up with a package that surprised many people. We were told it wouldn't pass our committee, and we were told it wouldn't pass the Senate. Then we were told it wouldn't get out of conference and it wouldn't pass the House. And, finally, we were told the president wasn't going to sign it. Well, he did sign it, and I have the pen. So we believe that if you take last year's tax cut and this year's tax reform—I prefer to call it that rather than a tax increase —we have a good, healthy two-year effort.

Connor: *How do you describe what's in this year's act?*

Dole: The excise taxes, the increase on telephones, the doubling of tax on cigarettes are simply an increase in taxes. Aside from that, the tax on airline tickets is not a new tax. We've had it in the past. Most everything else we can justify as a user fee, as tax reform, or as compliance.

Connor: *What kind of support did you get for the bill?*

Dole: We didn't get a single Democratic vote at first. We got one independent vote, Harry Bird of Virginia. We lost three Republicans in that first vote, but we still had 50 and they had 47. Then we picked up some Democrats but lost some Republicans in the process. The final vote in the Senate was 52 to 47. We had bipartisan support in the House, but we wouldn't have this tax bill today if it weren't for the president's strong efforts. He did it for a couple of reasons. First, I think he looked around and decided you just can't cut spending $100 billion more, and he decided that, well, we have to raise additional revenue. We thought compliance sounded good and closing loopholes sounded good. So we proceeded on that basis.

The primary concern was addressing deficits and interest rates, and getting the economy moving. The recession has dragged on for about 12 months longer than anybody anticipated. We think it has bottomed out. We see substantial stock market activity, but who really knows? Nevertheless, I believe that we've indicated that Congress now and then does the right thing, even if it's an election year. I'm very proud of what we've done, because I think it will have a positive impact and make a contribution to economic recovery. It's not going to be a cure-all. It's not going to mean you're going back to work tomorrow if you're out of work today. But let me underscore again that it indicates to Wall Street, financial markets, people across this country who make decisions and form opinion based on what Congress does, that we do have some courage from time to time — not too often, but on rare occasions we will display some courage and some leadership, and we will do the right thing.

Connor: *The Senate bill had provisions affecting capital gains, basically a reduction in the holding period, from 12 to 6 months, and also an indexing system on basis. These provisions were dropped from the conference bill, although the six-month period was tacked on to the debt ceiling bill. Could you describe these changes and give us your prediction of what will happen to these proposals?*

Dole: Well, first of all I think the provision should have stayed in the conference report. Let's face it, even though we had strong support in the Senate and some support among the conferees on the House side, the chairman of the Ways and Means Committee had not yet decided this was a good idea. I remember discussing this with him as one of the last provisions we discussed in the entire bill. In my view, one factor that bothered him was the cost. The three-year cost of shortening the holding period from 12 months to six months was alledgedly $550 million. We didn't agree with that. In fact, we had a lot of studies indicating it might even be neutral or on the plus side. So the chairman was concerned about the cost. I think he had other concerns about industry itself, whether there really was strong support for that change. In the bill passed last year, the 1981 tax reduction act, the so-called holding period amendment was placed in the bill by Ken Hance, the boll weevil Democratic congressman from Texas. That didn't please Chairman Rostenkowski of the Ways and Means Committee too much, and I think he wants to be very certain that this is really an industry-supported piece of legislation. I know that since the conference report has been agreed to, that Dan Rostenkowski has met with some industry people from Chicago; and I think he's in support of that provision.

As everybody knows, gains on

certain assets held for more than 12 months are considered to be long-term capital gains; and, of course, they're subject to an alternate tax rate of 28 percent. We're just trying to reduce that holding period to six months, and I hope that it will pass as part of the debt ceiling. As far as the indexing of capital gains, that was an amendment by Senator Armstrong, a very good amendment, but again I just couldn't persuade the chairman that we ought to go that far. Again, the amendment wasn't effective until 1986. There wasn't any cost involved for 1983, 1984, and 1985, but the chairman and other house conferees just didn't know enough about the provision, even though it had passed the Senate again by a very substantial vote. But I know Bill Armstrong well enough, he's not going to give up. He'll be back with that provision again next year.

Connor: *Subchapter S reform and the technical corrections bill have been discussed for some time. We were surprised that proposed changes weren't tacked onto this year's tax act. Since the Treasury Department and the joint tax committees strongly support these changes, is it likely that we will see something in this area during the legislative term?*

Dole: Whenever you pass a massive bill, you're going to have typographical errors, certain technical errors. So you have a Technical Corrections Act. We're now working on the one for last year's bill. We should act on it quickly this year because a lot of people involved in preparing and advising clients want to make certain we've made those corrections. I can only say we're working on that.

As far as Subchapter S, we probably should have tacked it onto this year's tax bill. Frankly, I never thought about it. We had so many other things to consider. But, again, that's not controversial. It was introduced in the House by the ranking Republican on the Ways and Means Committee. It's been introduced in the Senate by myself and Senator Long. We hope that it will pass this year. Beyond these two areas, we're not looking for very much tax activity this year.

Connor: *Senator, we would like your thoughts on future tax legislation, specifically the Senate bill's recommendation that the Treasury study alternative tax systems affecting individuals, such as a potential tax on the gross income, gross receipts, a consumption tax, or even a flat-tax system. We noticed this was deleted from the final joint committee report. What do you foresee on a study of this nature?*

Dole: We dropped that provision for a study of alternative tax methods because we were assured the Treasury is already doing it. It just seemed redundant to have a statutory provision. We're going to have hearings starting in the fall in the Senate Finance Committee on the flat-rate tax, and maybe we can look at some of the other alternatives, too. There's a lot of interest in trying to make the system simpler and more equitable. I'm not certain with all this that we've made it simpler, but we think we've broadened the base some with this year's tax bill. We closed a lot of loopholes. We're looking more at compliance and people who haven't paid their taxes.

We also know it's a very complex system. We're told by the IRS that over five million people didn't file tax returns last year, for a variety of reasons. We're also told that about $100 billion in revenue last year wasn't paid in taxes—and it's not all from the underground economy. A lot of it is from not paying on capital gains or tips, and we've addressed much of that in this year's tax bill. As chairman of the Senate Finance Committee, my obligation is to make certain that everybody pays the tax they owe before we go back and ask people to pay more tax. Plus, it's got to be fair. We can't say that if you're rich you ought to be able to escape taxes and have a zero tax liability because you can write off nearly everything. So, we have a minimum tax in this bill for individuals and a minimum tax for corporations. I think the rich and the nearly rich ought to be happy to contribute to the economic recovery of this great nation. We believe we're on the right track for a simpler, fairer tax system in America. That's the aim of the Senate Finance Committee; that's the aim of the Congress; and I know that's the aim of President Reagan.

Connor: *Is there any other tax reform or legislation that you believe is on the horizon or that you might expect within the next year or two?*

Dole: If we're told by the Congress to raise more revenue next year—and I hope we're not going to be told that—then we first ought to go back to see if there are any more loopholes. There are some; we didn't close them all. Every time we close one, another one may spring up somewhere. I think the flat-rate tax, as well as some of the other alternative taxes you've mentioned, are going to be debated all next year and could become a big issue in the 1984 presidential campaign. We looked at a number of consumption taxes, but we weren't able to convince many people that we ought to put them in this year's bill. But to me, that makes some sense. The Senate Finance Committee will continue to meet. We're not out to get anyone; but we are out to make the system fair; and I welcome ideas from anyone.

Connor: *Thank you, senator, very much.*