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STAMP TAX REFORM IN COLOMBIA

by

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Stamped paper and stamp taxes are among the oldest means of raising government revenue in most countries. In Colombia these devices date back to the colonial period and were enshrined in the first constitution of the new republic in 1821. Although stamp tax legislation has since undergone a great many changes, including quite a few since the last codification in 1960, the basic nature of the tax has not changed. Similar ancient taxes exist in countries as different as the United Kingdom, Italy, Japan, India, the United States, and apparently every country in Latin America. The revenue system of all these countries would be simpler, fairer, cheaper to administer, and no less productive if the hundreds of diverse levies which now usually constitute their stamp tax systems were drastically reformed, Such a reform is here proposed for Colombia.

I. The Colombian Stamp Tax System.

The stamp tax as it now exists in Colombia is an irregular collection of fixed and *ad valorem* taxes applied to a conglomeration of bases in a confused and confusing way. These taxes may be classified for purposes of description into seventeen categories:[1]

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[1]See Joint Tax Program of the Organization of American States and the Inter-American Development Bank, Fiscal Survey of Colombia (Baltimore: Johns Hopkins Press, 1965), pp. 201-02. For more evidence on the widespread existence in Latin America of complex stamp taxes, see the series of descriptive studies (in Spanish) on Argentina, Chile, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua published by the Programa Conjunto de Tributacion OEA/BID, Union Panamericana, Washington.

(1) official activities (passports, various documents, papers, and certificates);

(2) mining activities (claims, titles);

(3) concessions and permits (mineral, forests, water, firearms, etc.);

(4) industrial property (patents, trademarks);

(5) transportation (ship and aircraft licenses and registration);

(6) appointments of government officials and officers of private companies;

(7) payrolls and accounts presented by government employees for payment at government offices

(8) income tax returns (filing);

(9) external trade (consular invoices, manifests, bills of lading, etc.);

(10) notarized documents;

(11) appraisals of property;

(12) documentary evidence;

(13) transfers of money;

(14) professional and technical licenses;

(15) financial activities (issuance and transfer of bonds and shares);

(16) air and sea transportation from Colombia to foreign ports;

(17) cargo and parcel transportation (documents, parcel post).

Many of these categories can in turn be subdivided into from ten to twenty smaller groups. In addition, a great many documents must be prepared on stamped paper, and the excise taxes on matches and playing cards are collected by means of stamps. A recent catalog of items and transactions which require

stamps or stamped paper lists close to a hundred distinct classes.[2] The list of exempted documents and persons is almost equally complex.

Since stamp taxes and stamped paper originally came into favor mainly for administrative reasons -- as a relatively convenient and enforceable way of raising state revenue -- it is only fitting that we deal first with some of the administrative problems with the present complex system in the next section. The remainder of the paper consists of a brief economic appraisal of the nature and effects of the Colombian stamp tax and a drastic proposal for its reform.

II. Administrative Aspects

The criteria traditionally applied in public finance treatises to the appraisal of any tax -- revenue productivity, simplicity, certainty, convenience of payment, and economic effects -- all suggest reforms of the existing stamp tax system.[3]

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[2]See Harvard Law School International Program in Taxation, Taxation in Colombia ("World Tax Series"; Chicago: Commerce Clearing House, Inc., 1964), Chapter 17, pp. 489-504; see also Luis Jimenez Forero and Martin Pinzon Matiz, Timbre National y Papel Sellado (2nd ed.; Bogota, 1964). The other eleven volumes in the World Tax Series -- on Australia, Brazil, India, Mexico, the United Kingdom, Sweden, Italy, France, the Fedral Republic of Germany, and the United States -- provide ample evidence of the degree to which strictures similar to those outlined in this paper can be applied to the stamp taxes in very different countries.

[3]Equity, another traditional criterion, is perhaps not too important in appraising stamp taxes because of their small revenue significance, though the incidence of the system is almost certainly regressive over a broad range of income, and regressivity is probably not a very good thing in a country with an income distribution as unequal as Colombia's.

Table 1.

STAMP TAX COLLECTIONS, 1951--1965
(millions of pesos)

Year	Stamp Tax[b]	As Percent of Total Current Revenues	As Percent of National Income
1951	45.1	6.7	0.59
1952	25.8	3.7	0.31
1953	29.4	3.5	0.32
1954	34.7	3.3	0.32
1955	35.2	3.1[c]	0.31
1956	51.7	4.5	0.41
1957	55.8	4.5	0.37
1958	59.0	3.6	0.35
1959	73.1	3.8	0.38
1960	84.3	4.0	0.38
1961	128.7	5.8	0.51
1962	140.6	6.6	0.49
1963	168.9	5.2	0.47
1964	227.1	5.4	0.51
1965[a]	234.5	5.3	___[d]

(a) Approximate

(b) The 1951-1960 revenue figures incorporate the taxes that were codified in Decree 2908 of 1960; for 1951-56 a special stamp tax on exchange operations has been omitted for greater comparability. These figures are based in part on a study by Dr. Francisco Pineda of the Dirección Nacional del Presupuesto, Ministerio de Hacienda y Crédito Público, Bogotá.

(c) 310 million pesos received from the sale of Pax del Rio shares to the Baco de la República and included as current revenues in 1965 have been omitted from this calculation.

(d) Not available.

Sources: Calculated from data in Contraloria General de la República, Informe Financiero (various years); and in Banco de la República, Cuentas Nacionales (various years).

Table 1 contains some data on the revenue importance of the stamp tax since 1951. Since 1961 when the last major reform took place, stamp tax revenues have remained a fairly constant small proportion of total national government current revenues. Since stamp taxes are imposed on a very broad range of transactions one might expect, a priori, that the yield from this miscellaneous collection of levies would vary more or less in accordance with the level of business activity as indicated by some measure of national income. The elasticity of stamp tax collections to changes in national income in the last fifteen years has been more than unity (that is, stamp taxes have usually increased more in percentage terms than has national income). On this basis a small increase in the relative importance of the stamp tax may perhaps be projected for the next few years, though it is unlikely to return to its 1951 and 1962 peaks (see Table 1). This past performance, however, includes the effects of several important changes in the rates and scope of stamp taxes. Over the long run, with the growing importance of other sources of revenue, stamp tax revenues seem more likely to follow a pattern like that in the United States, where the yield of the stamp taxes fell from 7.4 percent of national revenues in 1946 to only 0.1 percent in 1964.[4] The stamp tax is most unlikely ever to be an important source of revenue in Colombia again, whatever its role in the past may have been.

A small revenue yield is not in itself necessarily an argument for abolishing a tax. But when, as appears to be true in the case of the stamp tax, a small yield is combined with a high collection cost, the case for abolition becomes much stronger, since the net change in total revenue will be marginal. Unfortunately, no data are available on the cost to the government of collecting this 5 percent of its current revenues. In 1966, the budgeted cost of merely printing stamps and

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[4]See Advisory Commission on Intergovernmental Relations, The Intergovernmental Aspects of Documentary Taxes (Washington, 1964), which recommends the U.S. federal government reduce even further its already very limited use of stamp taxes.

stamped paper amounted to almost 1 percent of budgeted collections, and the decentralized and complex nature of the distribution system indicates that total collection costs may be very much higher, perhaps four or five times more than for most other national taxes. There can also be no doubt that more was spent in administering such taxes as those on many official activities than was collected from them, since the bulk of the revenue comes from a few taxes.

It is also certain that the "compliance cost," or the cost in time, effort, and money to the taxpayer of obtaining the proper stamps or stamped paper, is a considerable burden on business and personal transactions in Colombia. To cite a common case, the recent legalization of a government contract with a foreign entity involved three visits to a stamp tax vendor for stamps and stamped paper, not to mention a great deal of stamping, cancelling, and counter-signing. The need to get stamps of a particular denomination or so many sheets of stamped paper is always a nuisance and sometimes delays transactions considerably when, for example, there is no stamped paper to be had, or no stamps of the right denomination, as is all too often the cast, particularly outside of the capital city, Bogota.

Though the long tradition behind the system means that the full extent of this compliance burden on both taxpayer and government will probably not be widely realized until it is removed, the fact that the burden is not now much felt -- that "an old tax is a good tax" -- does not make its existence any more desirable. The only possible argument for the stamp tax as it now exists is that the system gives employment to a good many people, both behind the stamp tax counter and in front of it, thus tending to alleviate Colombia's growing urban unemployment problem. It may be doubted whether this 17th century labor-intensive method of harassing the public constitutes the most useful task to which otherwise idle hands may be put.

The alleged ease of collection (from the government's point of view) and of enforceability of the stamp tax is also more apparent than real. On the one hand, the small revenue yield means that almost no effort has been devoted to enforcing the stamp tax. On the other hand, it is often relatively easy to avoid the

tax by changing the form of business arrangements (for example, by booking an air ticket -- at the same basic cost -- for the route Panama-Bogota-Paris) or by misstating values in contracts, or by using fake or no stamps. These practices are especially tempting in the case of ad valorem taxes such as those on air travel (5 percent) and contracts (0.25 percent), though the full impact of the tax can often be avoided simply by stating the value on a contingent basis, in which case only a low fixed tax is payable.

In some countries, such as the United Kingdom,[5] documents that have not been properly stamped are not admissible as evidence in any civil proceeding. Enforcement thus depends on making it in the financial interest of persons dealing with taxable instruments to see that they are properly stamped. In Colombia, as in some other Latin American countries such as Mexico, the basic validity of a document is not impaired by improper stamping, though the authorities are not required to recognize a document as evidence unless it is properly stamped. Since, however, any necessary stamps may be purchased at the time at which the document is put in evidence at a nominal extra cost, this sanction is probably not worth much in practice, although it may at times hamper the enforcement of some contracts. The other penalties (mainly fines of 200-1,000 pesos) do not seem much of a deterrent to evasion either -- although the interest charge on delayed payments of 2.5 percent a month would be worth emulating in the case of other taxes, since in general the interest cost of delaying tax payments has in recent years tended to be negative owing to the accelerated rate of inflation.

On balance, again without real evidence, it seems probable that stamp

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[5]Harvard Law School International Program in Taxation, Taxation in the United Kingdom (Boston: Little, Brown and Company, 1959), pp. 94-104. For a strong administrative argument for modernization and simplification of the British stamp duty system, see "Nuisance of Stamp Duties", Midland Bank Review, May 1959, pp.3-7.

taxes are often evaded on small transactions and that only nominal tax is often paid on larger ones, when the tax is not completely avoided by changing the form of the transaction, since it is the form and not the fact that is usually the object of taxation. The misuse of the ingenuity of skilled tax practiotioners in avoiding taxes in this way is especially to be deplored in a developing country such as Colombia in which capable, trained people are perhaps the scarcest of all resources; of course, this waste is very likely quantitatively greater in the case of other taxes, but this does not redeem the stamp tax.

The complications of the present system of stamp taxes -- a conglomeration of taxes and fees imposed partly on capital and partly on transactions and united solely by the fact that the collection of the tax and the proof of its payment is by affixing stamps to a document -- are thus plain. It is clear the stamp tax violates any criterion of simplicity or convenience, whether viewed from the point of view of the government or the taxpayer. Furthermore, it is often not at all certain exactly how much stamp tax must be paid on a particular transaction, so that the present system may be said to fall down with regard to certainty also.

In short, on all these essentially administrative grounds, the Colombian stamp tax could use a drastic overhaul and simplication. The exact shape of the recommended changes emerges more clearly from the following brief economic appraisal of some aspects of the present system.

III. An Economic Appraisal

Some of the existing stamp taxes are really fees, or charges for benefits derived by private persons from government activities. Examples are the taxes on income tax clearance certificates (1 peso), certified copies of documents (various rates), and visas (various rates). In general, it would seem advisable to relate these fees more directly to the cost of providing the service for which the charge is made than is now the case. In some instances, it may even be possible to proportion the charge (which then takes on the characteristics of a benefit tax)

more closely to the benefit received by the individual concerned.[6] In many instances, of course, it should be perfectly feasible to charge fees without requiring a stamp to be affixed. Like many techniques of old fiscal administration (for example, the pre-audit of expenditures), the affixing of stamps surely has only a slight deterrent impact on the actual occurrence of fraud, and its very transparency appears in Colombia to have tended to deter any serious effort to discover and treat real cases of evasion.

In some instances, however, it would be better not to charge any fee at all, even when it is easy to do so and when a fair amount of revenue may thus be raised. One example concerns the filing of petitions to the government, a right of the citizen which should presumably not be charged for in a democracy.

Another example concerns the present requirement to pay a 5 peso stamp tax on each of the two copies of the declaration of income required by the income tax law. This provision is clearly regressive in its incidence within the group of income taxpayers: a recent sample study of several thousand income tax returns in Bogota indicated that about one-third of those who file taxable returns (not to mention the even greater number of those who declare income but are exempt from income tax) end up paying more in stamp tax than in income tax -- a finding which also indicates the ridiculously

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[6] This recommendation is made in the Joint Tax Program study cited above; chapter 10 of this study contains a brief analysis of the stamp tax and suggests changes similar to some of those proposed here. The scope for benefit taxation and the charging of fees is in general much wider in most developing countries than is usually thought, despite their characteristically unequal income distributions, in part because much of the benefit from divisible public expenditure tends to accrue to the middle and upper income groups.

low initial rates (starting at 0.5 percent) of the present Colombian income tax. If the administrative saving from handling fewer tax returns is considered more important than the tax consciousness generated by the filing of non-taxable returns, it would be better to set the filing requirement at a higher level (at least equal to the personal exemption) in order to avoid the cost of handling nontaxable returns rather than charging the taxpayer for the privilege of filing as is now done. It is the opposite of logic to levy a charge, even a small one, on an activity such as the filing of income declarations which it is desired to facilitate rather than discourage. There are already too many lines in which a conscientious Colombian taxpayer must stand before complying with his legal duties to justify the addition of yet another before the stamp tax window. A desirable part of any reform of income tax administration would thus be the elimination of the present stamp tax requirement, which was apparently introduced a few years ago to raise some money. The possible argument that most of those who pay little or no income tax should at least pay some stamp tax is without merit; if the income tax is too easy to avoid -- as it surely is -- the loopholes can and should be easily stopped within the framework of the income tax.

Some parts of the present stamp tax system really are taxes -- usually regressive, arbitrary, and easy to avoid taxes, but nevertheless taxes. Some of these taxes are, on the whole, desirable and should be retained. An instance is the 5 percent tax on foreign air travel which could well be raised, since it is both progressive in its incidence and either discourage the spending of so many dollars abroad on travel (through both the substitution and income effects, that is, by making travel relatively more expensive and by reducing income and thus the consumption of almost everything, including travel) or at least ensures that the government receives some compensatory fiscal income when dollars are spent on travel. The exact effect of this tax depends on the largely unknown factors of (a) the elasticity of demand for foreign travel and (b) the ease of avoiding the tax. Other examples might be (according to the Joint Tax Program report) the taxes on mining concessions and the

issuance of certain licenses to ships, planes, and firearms dealers.

Some of the existing stamp taxes seem, on the other hand, to be contrary to sensible economic policy and should be eliminated. Conspicuous instances are the tax on public appointments (2 percent, 4 percent, 5 pesos, or some combination) and the tax of 0.2 percent on government payrolls presented for payment. It is so difficult already to hire and keep capable people in the public service that it seems ridiculous to place even minor obstacles in the process. Other examples, might be the taxes on credit instruments, checks, and insurance premiums (2.5 to 4 percent), since the government presumably does not want to discourage either saving through insurance or efficient money transfers.

A somewhat more complex case concerns the treatment of shares. At present the issuance of new equities is taxed, as is their transfer. The small transfer tax and the slightly higher issuance tax are probably not too desirable in themselves, though a case can be made for both of them on cost-of-service grounds; but the striking thing is the complete irrationality of the present treatment of bearer shares, the issues of which is taxed at 2 percent of par value compared to 4 percent on registered shares. It seems clear that bearer shares have no rationale for existence except to facilitate tax evasion (whether of the income tax or of the death tax); it is also clear that they cannot be taxed on transfer, whether by a capital gains tax or by a stamp tax, since transfers are not recorded; and it appears difficult politically to abolish them, as would seem logical (and indeed necessary for effective estate or capital gains taxation). A useful compromise might be to levy a very high stamp tax on the issuance of bearer shares: if high enough, this tax would lead to their effective disappearance.

Incidentally, the mere existence of stamp taxes on securities transfers (3-5 percent of value in Colombia) has sometimes been used as an argument against levying a capital gains tax on gains arising from such transactions. This common point has at times received some academic support, at least insofar as the incidence

of the stamp tax is on the seller,[7] as it probably is as a rule in Colombia, given the thinness of the securities market. In fact, however, in no sense can the stamp tax really be considered a substitute for a capital gains tax, since it falls on loss transactions also and is not related to either the size of the gain or the income of the recipient. There may be reasons, economic or political, for giving relatively favorable treatment to capital gains realized on securities transactions, but the mere existence of a stamp tax on these transactions is not one of them.[8]

One reason for not taxing stock transactions or real property transfers is that, like any tax on asset transfers, a stamp tax on sales of securities or real property will tend, other things being equal, to lower both the price and volume of traded assets. If it is desired to strengthen the private capital market, both effects seem undesirable in the case of stocks, and the reduction in volume of sales perhaps undesirable in the case of real property. On the other hand, the price-reduction effect on real property would appear to be beneficial. The deterrent to asset transfers exercised by existing Colombian stamp taxes is undoubtedly slight in view of their low rates, but, as Ricardo put it: "For the general prosperity there cannot be too much facility given to the conveyance and exchange of all kinds of property, as it is by such means that capital of every species is likely to find its way into the hands of those who will best employ it in increasing the productions

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[7] See Charles Kennedy, "Stamp Duties as a Capital Gains Tax," Review of Economic Studies, XXIII (3), (1955-56), No. 62, pp. 241-44; also Ursula K. Hicks, Development Finance: Planning and Control (Oxford: Clarendon Press, 1965), p. 103. (On the incidence of stamp taxes, see also Carl S. Shoup, "Stamp Duties as a Capital Gains Tax: Comment," Review of Economic Studies, XXV (1), (1957), 53-37.

[8] It follows that the replacement of a capital gains tax on sales of securities by a special excise tax -- as in Japan in 1953 (see An Outline of Japanese Taxes 1966 (Tax Bureau, Ministry of Finance, 1966), p. 108) -- represents a complete change in the character of taxation and cannot be called merely an administrative simplification, as is sometimes done, See also the discussion in n. 9 and the corresponding paragraph in the

of the country."[9] It would therefore appear that securities transfers should not be taxed by stamp taxes in Colombia, unless the social need for the minor government revenue involved is thought to outweigh the social cost of reducing the volume of stock exchange trading. On balance, even in the absence of empirical evidence, the transfer tax should probably be abolished on stock transfers.

IV. The Proposed Reform.

In conclusion, a list of the specific recommendations for the reform of the present Colombian stamp tax system that emerge from the preceding analysis should be of interest to those entangled in similar systems in other countries:

(1) The stamp tax law should be again consolidated and codified.

(2) Documents that by law should be stamped should have no legal validity unless they are in fact stamped: this suggestion presumes a considerable reduction in the number of documents that have to be stamped and a more effective use and strengthening of the penalties for late or inaccurate stamping.

(3) Stamped paper should be completely abolished, and documentary stamps should be sold through the post office or other available outlets rather than through expensive special vending booths. More care should be taken in the printing and distribution of

[9] Principles of Political Economy and Taxation (1817) quoted in George F. Break and Ralph Turvey, Studies in Greek Taxation (Research Monograph No. 11, Center of Planning and Economic Research, Athens, 1964), p. 231. Break and Turvey, Chapter 10, provide a recent clear exposition of the argument against such transfer taxes in developing countries. The weight of this argument in relation to the very strong equity case for capital gains taxes -- which would appear to exercise similar "lock-in" effects in many instances -- is a complicated question which is not further dealt with here. (See J. G. Head, "The Case for a Capital Gains Tax," Public Finance, XVIII (1963), 220-49, and Richard Goode, The Individual Income Tax (Washington: The Brookings

different stamp denominations to prevent the frequent occurrence of shortages in various parts of the country.

(4) When the tax is really in the nature of a fee for a service provided to a private individual from which he derives a private benefit in excess of the social benefit derived from his taking advantage of the government service, the cost of service is the appropriate basis for the fee. Without some cost studies it is difficult to be precise, but examples of fees that might be set this way are those on the certification and recording of such documents as wills and juridical status. The desirability of paying these fees by means other than stamps should also be carefully examined.

(5) No stamp tax should be levied on income tax declarations or on the filing of petitions to the government.

(6) Stamp taxes should be deductible from the income tax base only to the extent to which their payment is a necessary element in the earning of income, and not, as at present, even when they are connected with such personal expenditures as tourist travel abroad.

(7) The present tax on foreign travel should be raised to at least 15-20 percent and made payable on all tickets purchased by residents within Colombia, no matter what the starting and ending points on the ticket. The administrative difficulties with this proposal are obvious but not insuperable; the political opposition from the articulate users of foreign travel -- all of whom have always good reasons for travelling -- and from the airlines is probably harder to overcome.

(8) The tax on the issuance of bearer shares should be raised to, say, 50 percent, and taxes on share transfers abolished.

(9) The taxes on public and private appointments and on payrolls and accounts presented for payment by government employees should be abolished.

(10) The taxes on matches, oils and greases, and playing cards are all nuisance regressive commodity taxes and should be abolished, as should the taxes on insurance policies and on cash transfers and credit instruments, which tend to discourage the development of financial markets.

The immediate net effect of these proposals would probably be to reduce slightly the revenue from stamp taxes (mainly because of the abolition of the tax on income tax declarations), but what is left of the stamp tax system -- a few penalty and control taxes and a few fees -- should be much more in keeping with the needs of Colombia's increasingly modern economy. It should also be much cheaper to administer and much easier to enforce effectively.

The reform of stamp taxes provides one of the few instances where tax "reform" in Latin America can and should usually mean lower, and certainly fewer, taxes. At the price of at most a very small fall in government revenue an unnecessary and costly wedge can be removed from a vast range of private and public transactions. The social gain from this reform will almost certainly greatly outweight any small revenue loss that may result. Further, this small step toward a more modern tax system is as a rule blocked by no political force other than apathy, so that prospects of successful reform, once some attention is directed to the problem, seem high. Virtually every country encumbered with a stamp tax system like Colombia's -- and this means most countries -- can and should drastically simplify and modernize it along lines similar to those proposed here.