

Preface

1. Prof. Susan P. Hamill, *An Argument for Tax Reform Based on Judeo-Christian Ethics*, Alabama Law Rev. 54:1 (2002)
From a divine perspective, no person or group of persons, regardless of their station in life, stands at a lesser level of importance than other persons because all persons were created in G-d's image...

2. Lisa San Pascual, *The Social Gospel Lays an Egg in Alabama*, Religion in the News 6:3 (2003)
[W]hen newly elected Gov. Bob Riley—a stalwart low-tax Republican and standard-bearer for the religious right—took a page from the liberal Protestant playbook and announced that the Christian way to solve Alabama's huge budget deficit was to raise taxes—Alabamians and journalists all over the country were amazed... In the end, Riley's daring crusade to persuade Alabamians that Jesus wanted them to raise taxes proved far too novel and far too unpalatable for most Alabama voters.

Introduction: Taxes in the Torah

3. *Wharton's Concise Law Dictionary*, Tax and fee-distinction

A compulsory exaction of money by a public authority for public purposes enforceable by law and is not payment for "services rendered".

4. Some types of taxation

- Regressive People of lower income pay a higher percentage of their taxed resource
- Flat Proportional Everyone pays the same percentage of their taxed resource
- Progressive People of higher income pay a higher percentage of their taxed resource

5. Exodus 30:15, Leviticus 19:9-10, Deuteronomy 18:3-4, Numbers 18:21

Neither shall the rich exceed nor shall the poor reduce from the half-shekel, to give the *terumah* of Gd, atoning for your lives.

And when you reap the harvest of your land, you shall not complete reaping the corner of your field, and you shall not collect the *leket* of your harvest. And you shall not take the lone grapes of your vineyard, and the *peret* of your vineyard you shall not collect; you shall leave them for the pauper and the stranger, I am Hashem your Gd.

And this will be the legal portion of the priests from the nation... And he shall give the priest the foreleg, the jaw and the stomach. The first of your grain, wine and oil, and the first of the shearing of your wool, you shall give to him.

And to the Levites I have given all of the tithe in Israel for a portion, in exchange for their service, as they serve in the Tent of Meeting.

6. Genesis 28:22

And everything You give me, I shall tithe for You.

Can Jewish government impose new taxes?

7. Professor Neil Brooks, *The Logic, Policy, and Politics of Tax Law*, pp. 50-51

At the most basic level, we have taxes because we have governments. Collecting taxes is simply one of the ways that the government has to achieve its broad social and economic objectives... The efficient allocation of resources, and thus the maximization of social welfare, is the normative government objective that preoccupies economists.

8. Professor Neil Brooks, *The Logic, Policy, and Politics of Tax Law*, pg. 71

[T]here are over 100 provisions that... have nothing to do with defining the basic elements of the tax system, instead their purposes are to provide implicit subsidies for those who behave in ways that the government wishes to encourage or who are deemed to be entitled to some form of relief because of their personal circumstances. These provisions are now widely referred to as tax expenditures. They take the form of special tax exemptions or deductions, tax credits, lower rates of tax or provisions that allow taxes to be deferred.

9. Mishnah, Bava Batra 1:4 (5a)

If a wall dividing a yard [between owners of different parts of the yard] collapses, we compel each partner to re-build it to a height of four cubits [about 2.2m].... We do not compel anyone to participate in building the wall higher than four cubits. If he builds another [tall] wall near that wall, then even if he has not placed a roof across this wall, we compel to pay his portion in the entire wall.

10. Talmud, Bava Kama 116b

If a caravan is travelling in the wilderness and is attacked by soldiers to loot it, they calculate [the ransom burden] based on wealth, not lives. If they hire a guide to go before them, they also calculate based on lives...

11. Rabbi Moshe Isserles (16th century Poland), Code of Jewish Law, Choshen Mishpat 176:25

The residents of a city are viewed as partners in any municipal need.

12. Talmud, Bava Batra 7b-8a

Mishnah: We compel him to participate in building a guardhouse and door for the yard... We force him to participate in building a wall, doors and a bolt for the city... How long must one be in the city, to be considered a resident? 12 months – but once he buys a residence, he is a resident immediately...

Rabbi Asi cited Rabbi Yochanan: Everyone, even minor orphans, gives to the city's defenses – but not rabbis, as they do not require protection. Rav Pappa said: For a wall, patrols and armour guards, even minor orphans pay, but not rabbis, as they do not require protection. The general rule: Whoever benefits pays, even minor orphans.

13. Talmud, Bava Batra 7b

Rabbi Elazar asked Rabbi Yochanan: When they collect, is it a head-tax, or based on financial benefit? He replied: They collect based on financial benefit. Elazar, my son, nail this in.

Alternatively: Rabbi Elazar asked Rabbi Yochanan: When they collect, is it based on proximity of the house [to the wall], or based on finances? He replied: They collect based on proximity of the house. Elazar, my son, nail this in.

14. Tosefta, Bava Metzia 11

Residents force each other to build a synagogue and to acquire a Torah scroll and Prophets...

15. Rabbi Yosef Karo/Rabbi Moshe Isserles (16th cent. Israel/Poland), Code of Jewish Law Orach Chaim 53:23

Mechaber: They pay the cantor from the communal pot. Although he fulfills his role for needy and wealthy alike, the needy cannot afford as the wealthy can.

Rama: Some say we collect half based on wealth and half as a head tax, and this is the communal custom.

16. Talmud, Bava Metzia 73b

Rav Pappa said to Rava: Does his honour see these rabbis, who pay the head-tax of others, but then compel them to work more [for them]!

17. Rabbi Joseph Katz (16th century Poland), She'erit Yosef 70

They arranged with the non-Jews, to pay them 40 gold coins annually. The wealthy want to tax each [slaughtered] animal a large sum, calculated such that the annual burden will match the tax collected. The needy – meaning, those who slaughter many animals – want to pay the tax based on the assets [of each citizen], not based on the animals.

Answer: It appears to me that the paupers are correct...

18. Rabbi Moshe Isserles (16th century Poland), Code of Jewish Law, Choshen Mishpat 2:1

This is the universal practice: The city council is like the Supreme Court in their town, striking and punishing and confiscating property according to the custom. However, some dispute this and say the city council cannot do this, but they may only compel the community to fulfill pre-existing custom, or that which is accepted by all of them.

Why don't we find progressive taxation in this system?

19. Rabbi Meir Katzenellenbogen (16th century Italy), Responsa of Maharam Padua 42

Regarding constructing a synagogue: Maharam recorded a great principle: Whenever we cannot set it by souls, then we collect and pay based on finances. He ruled regarding hiring a chazan for High Holidays that we calculate by finances, explaining that it is linked to finances because their wealth keeps them from moving elsewhere [for the High Holidays] and leaving their homes empty.

20. Rabbi Mordechai ben Hillel (13th century Germany), Bava Batra 481

To alter the system [of taxation] without universal agreement, in a manner which profits some and harms others, and is not about protecting the law, we would not listen to them to make an enactment to help someone against the Torah.

21. Prof. Adam Chodorow, *Biblical Tax Systems and the Case for Progressive Taxation*, J. of Law and Religion (2007)

Those opposed to progressive taxation have argued that the religious obligation to care for the poor is personal – not communal – and that it must be voluntarily undertaken.

22. Rabbi Yosef Karo (16th century Israel), Code of Jewish Law Yoreh Deah 249:1-2

The amount to give for it, if one can afford, is whatever the needy require. If one cannot afford so much, he should give up to 20% of his assets [*income*] for the ideal mitzvah, and 10% is the intermediate measure... One should never give less than 1/3 of a shekel per year. One who gives less has not fulfilled the mitzvah of tzedakah.

23. Rabbi Moses Maimonides (12th century Egypt), Mishneh Torah, Laws of Gifts to the Needy 9:1-3

Every city with a Jewish population must appoint tzedakah collectors from themselves, people who are known and trustworthy, who will circulate among the nation from Friday to Friday, taking from each person that which the person is suited to give and that which is set for him. They distribute it from Friday to Friday, giving each pauper food for seven days. This is what is called *kupah*.

And they also appoint collectors who take daily, from each yard, bread and kinds of food or fruit or money from any who give at the moment. They distribute the collected materials that evening among the needy, giving each pauper his needs for the day. This is what is called *tamchui*.

We have never seen or heard of a Jewish community that did not have a *kupah* of tzedakah, but *tamchui* exists in some places and not in others...