

Tax Lawyers and Tax Complexity

Cato Institute, **Tax Lawyers, Tax Complexity, and the Broader Problem of a Self-Serving Legal Profession**, by **Daniel J. Mitchell**:

The Internal Revenue Code is nightmarishly complex, as **illustrated by this video**. Americans spend more than 7 billion hours each year in a hopeless effort to figure out how to deal with more than 7 million words of tax law and regulation.

Why does this mess exist? The simple answer is that politicians benefit from the current mess, using their power over tax laws to raise campaign cash, reward friends, punish enemies, and play politics. This argument certainly has merit, and it definitely helps explain why the political class is so hostile to a **simple and fair flat tax**.

But a big part of the problem is that tax lawyers dominate the tax-lawmaking process. Almost all the decision-making professionals at the tax-writing committees (Ways & Means Committee in the House and Finance Committee in the Senate) are lawyers, as are the vast majority of tax policy people at the Treasury Department and the Internal Revenue Service.

This has always rubbed me the wrong way. Yes, some lawyers are needed if for no other reason than to figure out how new loopholes, deductions, credits, and other provisions can be integrated into Rube-Goldberg monstrosity of existing law.

But part of me has always wondered whether lawyers deliberately or subconsciously make the system complex because it serves their interests. I know many tax lawyers who are now getting rich in private practice by helping their clients navigate the complicated laws and regulations that they helped implement. For these people, the time they spent on Capitol Hill, in the Treasury, or at the IRS was an investment that enables today's lucrative fees.

I freely admit that this is a sour perspective on how Washington operates, but it certainly is consistent with the "public choice" theory that people in government behave in ways that maximize their self interest.

There's now an interesting book that takes a broader look at this issue, analyzing the extent to which the legal profession looks out for its own self interest. Written by Benjamin H. Barton, a law professor at the University of Tennessee, ***The Lawyer-Judge Bias in the American Legal System*** explains that the legal profession has self-serving tendencies. ...

I freely confess that I'm looking at this issue solely through my narrow prism of tax policy. But since Barton's thesis meshes with my observations that tax lawyers benefit from a corrupt tax system, I'm sympathetic to the notion that the problem is much broader.