

THE TAXONOMIST

They Make It Up. You Decide.

By Robert S. McIntyre

Last fall, after my group put out a study detailing widespread tax avoidance by America's largest and most profitable corporations, the right-wing Heritage Foundation published a screed attacking us. It was one blatant misstatement after another. I e-mailed the author, Norbert Michel, to point out his many factual errors, but he declined to correct them. At that point, I was willing to ignore his criticism—after all, why give publicity to patently baseless charges?

This March, however, a shortened version of Norbert's claptrap appeared on the website of Heritage's ally, the Fox News Channel (which, of course, never asked for a "fair & balanced"® reply). We soon started getting negative e-mails. Some were from typical Fox News aficionados—e.g., "are you people morons?"—but others came from folks who usually find us trustworthy, e.g., "I find [one of Norbert's points] troubling." So I've decided to go public with my response.

Norbert called his initial salvo "Anything But Avoidance: Citizens for Tax Justice's Blundering Corporate Tax Report." Even the title is a joke. By 2002 and 2003, corporate taxes had fallen to their lowest sustained level as a share of the economy since World War II. If that's not rampant tax avoidance, what would be? Indeed, lobbyists are frequently quoted in the newspapers crowing about how low they've brought corporate tax bills.

When he gets to the details, Norbert is no more convincing. He starts by complaining that our study failed to note that tax reporting and shareholder reporting are different. Yipes! That was exactly our point! The profits that companies report to their shareholders are much bigger than what they report to the IRS, due to loopholes, shelters and so forth. That's why so many corporations pay little or nothing in income taxes.

Norbert also criticized us for an older analysis showing that Enron didn't pay federal income tax in four out of five years between 1996 and 2000. That revelation led to a congressional inquiry into Enron's tax returns, which confirmed that we were right: Enron paid no tax in four out of the five years. To be sure, as Norbert notes, there were minor differences between Enron's financial statements (which we relied on) and its actual tax returns—not shocking for a notoriously crooked company like Enron. But the bottom-line story was the same. (P.S. to

Norbert: relying on Enron to make your case is weird.)

In his Fox News Channel piece, Norbert charged that our February 2005 study on state corporate income tax avoidance failed to alert our readers to the fact that companies report only their total state income tax payments, without details by state. Jeez Louise! We didn't just make that clear, we strongly recommended that state-by-state tax disclosure be required in the future.

Finally and perhaps most plausible to the uninitiated, Norbert asserted that we'd "estimated" companies' income taxes. Well, no. We got the tax data straight out of corporate annual reports. This information exists because some dedicated crusaders in the 1970s, led by a group named Tax Analysts and Advocates, convinced the government to make the companies tell us. Corporate apologists like the Heritage Foundation may wish that corporations don't have to disclose their actual tax payments, but they do.

Compiling corporate taxes based on annual reports has a long history. The staff of Congress's Joint Committee on Taxation used the same approach in a number of corporate tax studies it prepared from the mid-seventies to the early eighties at the request of then-Rep. Charlie Vanik (D-Ohio). Likewise, Tax Analysts published several similar but more detailed reports during the same period. Citizens for Tax Justice picked up the torch starting in 1984, when our first corporate tax study helped persuade President Ronald Reagan to abandon his earlier loophole-laden tax policies and support the major tax reforms enacted in 1986. We've published nine other corporate tax reports since then. They've all been heavily scrutinized, and have stood up well.

That's our record. As for Norbert, well, before Heritage he worked for Entergy—a profitable Louisiana-based electric utility that not only paid no federal income tax in 2003, but also received a huge tax rebate. (You can look it up on page 67 of Entergy's 2003 report.)

Corresponding with Norbert last fall, I was tempted to paraphrase Mary McCarthy's nasty quip about Lillian Hellman. "Norbert, every word you write is a lie, including 'and' and 'the'." Trying to be polite, I demurred. But no more. Norbert and your Heritage pals, consider it said.

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