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Is an Interest Deduction for Personal Debt a Tax Expenditure?

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In the United States, generally all interest payments are deductible. In Canada, by contrast, only interest that is incurred for a business purpose is deductible. In both countries, however, the deduction for interest paid on debts connected with the acquisition of a personal asset is commonly analyzed and defended as if it were a tax expenditure. Thus, in the United States the "Deductibility of Mortgage Interest on Owner-Occupied Homes" (which constitutes about 60 per cent of all deductions for interest paid) and the "Deductibility of Interest on Consumer Credit" are included in all published tax expenditure lists. In Canada, the recent debate over whether residential mortgage interest should be deductible, see 1 *Canadian Taxation* (No. 3) 23-29 (1979) and 1 *Canadian Taxation* (No. 1) 38 (1979), has been carried on almost exclusively in tax expenditure terms. The proposed deduction has been defended and analyzed as a housing measure and as a measure to stimulate the economy. In this article, Professor Gunn argues that the deduction for interest on personal debt is not a tax expenditure but instead is a proper deduction in a normative income tax base. He thus justifies a deduction for personal interest by reference solely to tax criteria (as opposed to expenditure criteria). His article is written from the point of view of the United States tax position, which at present does not distinguish between interest income on business and personal loans. This, Professor Gunn argues, is the theoretically correct position.

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Tax expenditure analysis shows that most attempts to use the tax system to further non-tax goals are inefficient, unfair, or both.[1] But tax reformers have accepted too uncritically the designation of certain features of the tax law as tax expenditures. An obvious example is the deduction for extraordinary medical expenses. A taxpayer with $15,000 gross income and $10,000 in necessary[2] medical expenses so obviously has less ability to pay than a taxpayer with the same income but better health that a deduction for medical expenses is an essential step in measuring taxable capacity.[3]

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1. *The Congressional Budget and Impoundment Control Act of 1974* defines tax expenditures as "revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability . . . ." *Pub. L.* 93-334, § 3(a) (3). The legislative history shows that by special provisions, Congress meant provisions that deviate from the normal tax structure. See Surrey & McDaniel, "The Tax Expenditure Concept and the Budget Reform Act of 1974," 17 *B.C. Ind. Com. L. Rev.* 679, 683 (1976).
   S. Surrey, in *Pathways to Tax Reform,* Cambridge: Harvard University Press, 1973, explains the history and functions of the tax expenditure budget, analyzes the effects of many tax expenditures, and discusses the political problems of replacing tax expenditures with direct expenditures.
2. For administrative reasons the medical expense deduction is not limited to the costs of necessary medical procedures.
3. G. Break and J. Pechman, *Federal Tax Reform.* Washington: Brookings Institution, 1975, pp. 21-22. Nevertheless, S. Surrey, *supra note* 1, pp. 21-23, treats the medical expense deduction as a tax expenditure on the ground that "most economists" would classify it that way. Professor Surrey argues against the Break & Pechman justification for the deduction by showing that a deduction for a given dollar amount of medical expenses benefits a 70 per cent bracket family more than a 14 per cent bracket family. But this kind of analysis assumes the answer to the question to be decided. If the medical expense deduction were a form of financial assistance to taxpayers, its upside-down effect would provide legitimate ground for criticism. But if money spent for medical treatment should be deducted in determining the tax base, the 'upside down' point is irrelevant. To illustrate, suppose someone were to propose that unemployed taxpayers be taxed as if they had earned $10,000. No one would seriously support such a suggestion, since money not earned is not income in any satisfactory practical sense. Yet it is as true of the exclusion of non-existent earnings as of the deduction for medical expenses that it 'benefits' high-bracket taxpayers more than those in lower brackets. Consider also the deduction for business expenses, which can be thought of as having an upside-down effect if one starts by assuming a tax system in which business expenses are not deductible.

deduction that is most often seen as a tax expenditure. Both scholarly and popular books denounce the deduction as a subsidy[4] and an upside-down subsidy at that.[5] But this is wrong. The interest deduction, judged on the basis of tax criteria alone, serves important functions and so is not a tax expenditure.

Some normative model of an income tax is a necessary starting point in designating particular exclusions, deductions, or credits as tax expenditures, since not every failure to tax what might be taxed is an expenditure.[6] No one would describe such provisions as the deductions for the costs of earning income or the failure to tax income at 100 per cent rather than at current rates as expenditures. Only departures from the norm — 'special provisions' in the sense that they are not required by tax criteria — are in any sense equivalent to collecting taxes from everyone in an evenhanded way and sending some of the money collected to those whose activities are to be encouraged. Because limiting the interest deduction to business and investment interest would create serious administrative problems, would bias the tax system against those with earned incomes, and would tax people on more than the sum of their consumption and savings, the deduction in its present form is not a tax expenditure.

I. Administrative Convenience

One argument for allowing an interest deduction as part of a normative tax model rests on the theoretical and practical difficulties of distinguishing business interest (much of which would be deductible as a business expense in the absence of a special provision for interest) from personal interest. This argument has been made before[7] and need only be summarized here. If business interest were deductible and personal interest were not, some taxpayers who in the absence of taxes would have borrowed to finance houses could try for the same non-tax result combined with a deduction for business interest by selling business assets, using the proceeds to buy houses, and borrowing to continue the business. The problem here is not merely the practical one of detecting tax avoiders. If a taxpayer who wants a house borrows to keep from having to take money out of a business to buy the house, is the interest a cost of retaining the business or a cost of buying the house? In fact, it is both, and the lack of any way of distinguishing business from personal interest, even in theory, supports the present system.

Past experience suggests that legislation denying a deduction for personal interest would be enforced by attempts to determine whether the taxpayer's motive for borrowing was to finance personal consumption. This technique is now used in applying section 265(2) of the *Internal Revenue Code,* which denies a deduction for interest on debt "incurred or continued to purchase or carry" tax-exempt bonds. It is arbitrary and unfair in application and unsound in principle. As a practical matter, the only taxpayers who lose their interest deductions under section 265(2) are those who lack the resources or foresight to refrain from using their tax-exempt bonds as collateral for their debts and those who do not leave a decent interval between their borrowings and their purchases of exempt bonds.[8] A similar approach to distinguishing business or investment from personal interest would deny interest deductions to taxpayers who have no substantial business assets without seriously limiting the interest that could be deducted by those who can secure their debts with business property. But even if taxpayer purpose could somehow be established, denying interest deductions to those who borrow for personal as opposed to business reasons would make no sense. Compare a taxpayer who borrows $100,000 to buy business assets, and who later uses his own cash to buy a $100,000 house with another who borrows the same amount to buy a house and later uses money not borrowed to buy business assets. The first might be said to have had a business motive for borrowing, and the second a personal motive. Yet each, after buying the business assets and the house, is in the same economic position as the other: each has the same gross income, the same interest payments, and the same annual consumption. A taxpaypayer's motive for borrowing is not only hard to find, it is not even worth looking for.[9]

4. S. Surrey, *supra* note 1, p. 36; R. Brandon, J. Rowe and T. Stanton, *Tax Politics.* New York: Pantheon, 1976, p. 55. *Tax Expenditures,* a "compendium of summaries" of information about tax expenditures published by the Senate Budget Committee, concedes that there is no evidence that Congress "originally intended to encourage home ownership or to subsidize the housing industry " by allowing deductions for mortgage interest and real-property taxes, but says that home mortgage interest is at present justified as a subsidy. *Id.*, 94th Cong., 2d. Session. 76 (Committee on the Budget, United States Senate, 1976).
5. Subsidies taking the form of deductions or exclusions are described as being 'upside-down' because a deduction or exclusion of a given dollar amount produces a greater dollar benefit to a high-bracket taxpayer than to a low-bracket taxpayer. See note 3, *supra.*
6. See, e.g., Surrey & Hellmuth, "The Tax Expenditure Budget — Response to Professor Bittker," 22 *Nat. Tax J.* 528, 529 (1969).
7. E.g., R. Goode, *The Individual Income Tax* (2d ed.). Washington: Brookings Institution, 1976, p. 151.
8. For examples of how loan proceeds are traced under § 265 (2), see *Wisconsin Cheesman, Inc. v. United States,* 388 F.2d 420 (7th Cir. 1968); Rev. Proc. 72-18, 1972-1 *Cum. Bull.*740.
9. The assumption that tracing or purpose tests can assign interest to particular spending overlooks the fungibility of money. See Note, "The Deductibility of Interest Costs by a Taxpayer Holding Tax-Exempt Obligations: A Neutral Principle of Allocation," 61 *Va. L. Rev.* 211, 223 (1975).
Although tracing is wrong in principle, it may be an acceptable practical approach to such present limits on the deductibility of interest as § 265 (2) (interest to purchase or carry tax-exempt bonds), § 163 (d) (limitation on deduction of investment interest), and § 189 (capitalization and amortization of construction period interest). Consider the denial of a deduction for interest to purchase or carry tax-exempt bonds. The reason, if there be any real reason, for disallowing such interest has nothing to do with measuring the taxpayer's income on a sound normative basis. By allowing an exemption for interest on state and local government bonds, Congress has already decided that some people are not to pay tax on their 'true' incomes. Denying a deduction for the interest cost of carrying exempt bonds seems to be a crude way of limiting the attractiveness of those bonds to investors, so as to reduce the drain on the federal treasury. In effect, by enacting § 265 (2), Congress has discouraged those without substantial assets from investing in tax-exempt bonds. It is pointless to complain that a limit on an arbitrary tax preference is itself arbitrary. Similar arguments can be made in favour of § § 163 (d) and 189.

Recognizing the problem of tracing the proceeds of borrowing to particular expenditures, commentators have suggested the use of allocation formulas to separate business from personal interest. One proposal would limit the deductibility of interest to the taxpayer's property income.[10] In effect, a taxpayer would be deemed to have incurred investment interest only to the extent that interest paid in a given year did not exceed the amount of the return on investment for that year. This would be a very crude solution, as it would allocate no interest to investments or businesses that proved unprofitable. Furthermore, this approach could not easily be used to distinguish business (as opposed to investment) interest from personal interest. At the very least, some sort of distinction between businesses for which capital is a "material income producing factor" and others would have to be drawn.[11]

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Another possible method of allocating interest between consumption and other things would be to allocate interest arbitrarily among the taxpayer's business assets, business expenses, personal assets, and personal consumption.[12] While this method would avoid some of the problems of the 'interest limited to investment incomes' formula, it would require annual valuations of all of a taxpayer's property, and for that reason alone is probably not worth serious consideration.

II. Earned Income and the Interest Deduction

Economists who analyze the interest deduction sometimes defend the deduction for personal[13] interest by comparing someone who borrows to finance current consumption with someone else who consumes by selling an income-producing asset.[14] Compare two taxpayers, each owning income-producing property worth $50,000 and yielding $5,000 per year income. The first sells income-producing property and buys a $50,000 yacht; the second borrows $50,000 at ten per cent to buy the yacht. Economically, each taxpayer has done the same thing, and the first has plainly reduced his taxable income by $5,000 per year. Therefore, notions of equity suggest that the taxpayer who borrows should also have his income reduced, a result achieved by allowing a deduction for interest.

Arguments based on 'equal treatment of equals' are always somewhat suspect. If used without restraint they can be used to show that nothing should be taxable, or that everything should be. For example, one could say that those who pay to ski should be able to deduct their costs so as to equalize their tax treatment with that of skiing instructors, who are not taxed on the value of the free skiing that goes with their jobs. This argument, which does not differ in any substantial way from that set out in the previous paragraph, is plainly foolish; any tax system must tolerate some people's receiving tax-free what others buy out of after-tax income. Every form of consumption is received tax-free by someone. An across-the-board elimination of all inequities of this sort would eliminate taxation. The case for the interest deduction, however, is stronger than the case for the skiing expense deduction because denying a deduction for personal interest would give the tax system a systematic bias against taxpayers whose incomes come largely from performance of services.

It has long been accepted that, if all else is equal, someone with a given amount of earned income has less ability to pay than someone with an equal amount of income from property.[15] Those with earned income must save for the day when income stops because of sickness or retirement.[16] Those who work for a living incur non-deductible costs that those who do not work can avoid by performing services for themselves.[17] Therefore, a fair tax system must avoid unnecessary features which tend generally to tax those with earned incomes more heavily than those with equal amounts of property income. Denying a deduction for personal interest would discriminate against those with earned incomes. An owner of income-producing property can easily exchange future income for current consumption by selling the property and spending the proceeds, but wage earners cannot sell their jobs. The only way a taxpayer who works for a living can give up future earnings to get present consumption is by borrowing. The discrimination created by denying a deduction for the costs of skiing strikes largely at random,

10. R. Goode, *supra* note 7, pp. 151-52.
11. Goode, "The Economic Definition of Income," in J. Pechman (ed.), *Comprehensive Income Taxation*. Washington: Brookings Institution, 1977, pp. 1, 22-23.
12. This technique is recommended for allocating interest payments to interest income from tax-exempt bonds in Note, *supra* note 9, except that this Note does not include business expenses as an item to which interest should be allocated.
13. As shown in the previous section, there is no practical way to distinguish business from personal interest. In referring to deductions for personal interest in this section, I shall, however, adopt the assumption of most of the deduction's critics that their target can somehow be identified.
14. The example that follows is a simplified version of one in W. Vickrey, *Agenda for Progressive Taxation*. New York: Ronald Press, 1947, pp. 22-23. It also appears in White, "Proper Income Tax Treatment of Deductions for Personal Expense," 1 *Tax Revision Compendium* 365 (House Comm. on Ways and Means (1959)). Professor Vickrey opposes the interest deduction. Professor White favoured the deduction in 1959, on the ground that "debt, a negative asset, is a source of negative income," *id.* at 366. This is not a convincing argument, for it merely states a conclusion. The question is, "what is income?" To say that interest should be deducted because it is 'negative income' is to define 'income' in a way that requires an interest deduction without giving a reason why 'income' should be defined in that way.
15. This idea goes back at least to John Stuart Mill. J.S. Mill, *Principles of Political Economy*, Vol. 2, New York: Appleton, 1874, pp. 405-06.
16 *Id.;* see also N. Kaldor, *An Expenditure Tax*. London: Allen & Unwin, 1955, pp. 31-32.
17. See W. Vickrey, *supra* note 14, pp. 49-50.

while the burden of the discrimination that would arise if personal interest were not deductible would fall almost exclusively[18] on members of a class that should be favoured, not disfavoured, under an income tax.

III. Is Interest 'Consumption'?

The widespread belief that the interest deduction is a subsidy probably stems from a feeling that interest paid for non-business purposes is paid for consumption, and so should no more be deductible than any other personal expense.[19] But this argument is not persuasive. The mere fact that a taxpayer incurs an expense in order to enable him to consume (or to consume earlier rather than later) cannot mean that that expense is itself consumption. Suppose a taxpayer goes into business and spends a large sum on advertising and other business expenses in order to make money which he plans, eventually, to consume. The business expenses are incurred for consumption in a cause-and-effect sense, since they are incurred only because of the taxpayer's desire to consume, but no one would seriously argue that those expenses are themselves consumption. Indeed, interest can be viewed as at least analogous to business expenses in the sense that both interest on personal debt and business expenses are incurred to enable the taxpayer to get money to be used to purchase personal satisfactions.[20] Again, an 'equal treatment of equals' analysis suggests that if business expenses are deductible interest should be deductible as well.

The 'interest is consumption' idea seems to be based on the obvious point that someone who borrows to consume something he otherwise would have had to wait for must have expected 'satisfaction' from consuming earlier rather than later equal to that which would have been received by spending the money used to pay interest on something else. That is, a taxpayer who pays $200 in interest to take a vacation trip this year rather than next must have anticipated at least as much enjoyment from taking the trip early as he would have received by spending the $200 on visits to nightclubs. There are at least two things wrong with this argument. First, it proves far too much; it proves, for example, that business expenses should not be deductible, since we could say that a taxpayer who spent $200 on business expenses instead of on riotous living must have expected as much satisfaction from the business spending as would have been received from consuming out of the $200.[21] Second, if the benefits of consuming now rather than later should be regarded as consumption, they should be regarded as consumption across the board, not just in the case of those taxpayers who have to pay interest to consume early.[22] Taxpayers do not pay additional taxes because they earn the money they spend on consumption early enough to pay for that consumption without borrowing. Suppose a taxpayer wants to take a $1,000 vacation trip in 1980 so badly that he will pay $1,100 for the trip. If he happens to earn $1,000 in 1980 he is viewed as having earned and consumed $1,000 in that year. If his earnings were delayed until 1981, so that taking the trip in 1980 required borrowing $1,000 at an interest cost of $100, the 'interest is consumption' theory would say that his consumption was $1,100. Interest incurred to pay for consumption is as much a cost of earning later as of consuming earlier.[23]

IV. Interest, Rent, and Imputed Income

Most discussions of the interest deduction focus on home mortgage interest. Since what one buys with mortgage interest is the right to occupy a house earlier, rather than later, such interest resembles rent, and so we see complaints that allowing a deduction for mortgage interest but not for rent discriminates against renters. Even if this is true, discrimination against renters is a far less serious problem, in terms of fairness,[24] than the discrimination

18. A few people with property incomes would be disadvantaged by repealing the interest deduction. For example, some trust beneficiaries have income rights that cannot be assigned. But the great majority of those who cannot sell the source of their incomes are wage earners.
19. This seems to be the position of White, *supra* note 14.
20. Consumer interest is paid to enable the consumer to buy now, rather than later, and so may seem to differ from a business expense because the latter is ordinarily incurred to enable the taxpayer to make a profit. But the expenses of a business run with a view to a quick, small profit are just as deductible as those of a business that aims at a larger, but later, profit. Since anyone with a choice of earning patterns will consider his needs for current consumption in making the choice, it is safe to conclude that some business expenses are, like personal interest, incurred to enable the taxpayer to consume earlier rather than later.
21. *Cf.* Andrews, "A Consumption-Type or Cash Flow Personal Income Tax," 87 *Harv. L. Rev.* 113, 1167 n. 119 (1974).
22. See Andrews, "Personal Deductions in an Ideal Income Tax," 86 *Harv. L. Rev.* 309, 376 n. 116. (1973). To take the supposed time value of consumption into account fully would require abandoning income as the tax base and taxing consumption instead. For present purposes, it may suffice to say that the choice of income rather than consumption as the tax base reflects a decision that there is no time value of consumption, or at least none that should count in determining tax liability. I have addressed the time value of consumption point on the merits in Gunn, "The Case for an Income Tax," 46 *U. Chi. L. Rev.* 370, 374-78 (1979), and will not repeat the argument here.
23. Under the 'Haig-Simons' definition, income is the sum of a taxpayer's consumption and additions to savings in a given period. H. Simons, *Personal Income Taxation*. Chicago: University of Chicago Press, 1938, p.50. Since interest is not consumption, its deduction in computing Haig-Simons income is essential. Whether the Haig-Simons definition provides a useful starting point for creating a tax system is debatable. Haig-Simons income is at the very least, however, *one* widely-used normative income model, and since this is so, it follows that a deduction required by the Haig-Simons model is not a tax expenditure. See Blum, Book Review, 1 *J. Corp. Tax.* 486 (1975) (items that "can be and often are justified to some degree on grounds that relate to the tax system" are not tax expenditures in the same sense as provisions like those allowing rapid amortization of pollution-control equipment, which are plainly subsidies.)
24. In terms of efficiency or economic neutrality a case might be made for discriminating against those with earned income rather than against renters. Neutrality arguments assume that a 'good' tax is one that gives taxpayers little inducement to change their behaviour from what it would be in a world with no taxes. The interest deduction may well have caused more resources to flow toward housing than would have been the case if there were no tax; but it almost surely has not induced many people to live on earnings from property rather than on wages.

against those with earned incomes that would attend denying a deduction for mortgage interest. For most people at any given income level the choice between buying and renting is much more likely to be voluntary than the choice between owning income-producing property and working for a living. A line must be drawn somewhere, either between renters and buyers or between those with property and those with none. Drawing it between renters and buyers avoids a systematic bias contrary to the ability-to-pay concept that makes income a fair tax base.

It is worth noting that the interest problem would not be fully solved by taxing imputed income. To be sure, if imputed income from homeownership were taxed, interest on a home mortgage loan would be deductible as a cost of earning income. But not all personal interest is incurred to buy houses. Taxpayers who borrow to pay for immediate consumption items like vacation trips surely have no imputed income from their spending (or at least none that could, even in principle, be measured and taxed). In any event, the likelihood that we will ever tax income from homeownership is so remote that it seems wise to take its nontaxability as given.

Nor can denying a deduction for interest be justified as a technique for offsetting the benefits taxpayers receive from the exclusion of imputed rents from income.[25] Whether exclusion of imputed rents does benefit anyone is doubtful. Under current (admittedly unrealistic) depreciation practices, investments in residential real estate are tax shelters, not sources of added tax liability.[26] The problem would be even more severe if imputed rent from a taxpayer's own house were taxed, since taxpayer-homeowners would have little incentive to keep maintenance and repair expenses, which would be deductible as costs of earning income if imputed rents were taxable, within reasonable limits.[27] And even if the depreciation and maintenance problems were solved, there is no good reason to believe that any increase in a taxpayer's income from denying him an interest deduction would even approximate the increase (if any) in his income that would occur if imputed rent were taxed and interest, maintenance, and depreciation were deductible. The taxpayer with no mortgage, for example, would not be affected at all by repeal of the deduction for mortgage interest. Thus, even if mortgage interest payments, for taxpayers with mortgages, were on the average equal to those taxpayers' net imputed rents, attempts to tax those net imputed rents indirectly by denying mortgage interest deductions would not reach the wealthy.[28]

Conclusion

To the extent that the tax expenditure budget is regarded as a list of subsidies that should be evaluated by looking to non-tax considerations,[29] the interest deduction should be removed from the list. Whatever increase in fairness repeal of the deduction for personal interest would achieve by equalizing homeowners and renters would be more than outweighed by the practical problems of distinguishing personal from business and investment interest and by the introduction into the tax system of a systematic bias against those with earned income.

Inclusion of interest and other questionable items in the Tax Expenditure Budget exaggerates the extent to which Congress uses the tax code to subsidize favoured activity, fosters popular dissatisfaction with the tax system,[30] encourages unrealistic hopes for the savings to be achieved by tax reform,[31] and discredits the tax expenditure concept itself.[32]

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25. This 'second best' argument for denying deductions for interest is often advanced, though in view of the serious practical problems of distinguishing personal from other interest this justification for denying the deduction is weak. Ordinarily, 'second best' arguments are used to justify crude measures in lieu of theoretically better but practically inferior proposals. In the case of the interest deduction and the exclusion of imputed income, however, the 'second best' approach of denying deductions for mortgage interest seems to raise as many practical problems as the alternative of imputing income to homeowners on the basis of their houses' values as estimated for local property taxes or on a 'purchase price plus inflationary increase' basis.

26. The argument for taxing homeowners on the rental value of their houses is that the income tax should not favour the homeowner over someone who owns a house, rents it to a tenant, and uses the proceeds to pay rent. If we accept the present depreciation practices as a starting point, the argument for taxing homeowners on imputed rents actually supports giving homeowners a deduction for what might be called an 'imputed tax shelter.'

27. I am indebted to Cruz Saavedra, Cornell Law School, class of 1979, for this observation. C. Kahn, in *Personal Deductions in the Federal Income Tax,* Princeton: Princeton University Press, 1960, p. 119, reports that Wisconsin's attempt to tax imputed rent failed because of "a widespread practice of overstating expenses."

28. The argument that denying interest deductions might, on the average, have somewhat the same effect as taxing imputed income from ownership of a house is not persuasive. People do not pay taxes 'on the average.' Section 72, which determines income from annuities by looking to average life-expectancies, rather than the individual taxpayer's experience, illustrates the deficiencies of tax rules which work out only on an overall basis: Under § 72 hardly any taxpayer will pay the right amount of tax, since nearly everyone dies earlier or later than the actuarial tables would predict.

29. As the concept's proponents universally argue; see note 1, *supra.* In dealing with some problems it may be acceptable to call the interest deduction a subsidy. It is certainly the case that, even though the deduction performs an important tax function and should not be repealed, it acts like a subsidy in encouraging people to spend for housing instead of other things. Therefore, in evaluating proposals to enact or continue 'real' subsidies for housing, such as the use of tax-exempt bonds to provide low-interest mortgage money, Congress should bear in mind that housing is already encouraged by the deductibility of mortgage interest. Most tax expenditure theorists have treated tax expenditures as an all-or-nothing concept, under which a given tax provision either is, or is not, a subsidy. As the example of the interest deduction shows, this approach is too simple.

30. For an example of such dissatisfaction in an extreme form, see R. Brandon, J. Rowe & T. Stanton, *supra* note 4.

31. See Bittker, "Income Tax 'Loopholes' and Political Rhetoric," 71 *Mich. L. Rev.* 1099 (1973).

32. Much of the force of Professor Bittker's attacks on the concept of the comprehensive tax base (e.g., Bittker, "A 'Comprehensive Tax Base' as a Goal of Income Tax Reform," 80 *Harv. L. Rev.* 925 (1967)) derives from the careless labeling of tax provisions as subsidies by his opponents.