

Tax Matters

The Newsletter of the New Mexico Tax Research Institute

Issue No. 2020-02

February 2, 2020

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IN THIS “SUPERBOWL LEGISLATIVE SESSION” ISSUE OF TAX MATTERS:



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INTO THE LEGISLATIVE SESSION – IT BEGINS - JANUARY 2020



The 2020 Regular Session of the New Mexico Legislature convenes at noon on Tuesday, January 21, and ends at noon (or somewhere thereabouts) on February 20. The deadline for bill introduction is the 5th of February. Legislation not acted on by the Governor is pocket vetoed on March 11. The effective date of legislation that's not a general appropriation bill, a bill carrying an emergency clause or other

specified effective date takes effect on May 20. Being a “short” or 30-day “budget” session, non-budgetary legislation and items not related to the budget are not fair game for open introduction and are limited by the call of the Governor. It is an interesting time. There is still talk of tax reform and Governor also wants to address crime issues, but the fiscal crisis is over for the moment—mostly thanks to very strong oil prices/production in the Permian. So, while there's plenty to fight about and money to fight over, it doesn't appear as tense as some and it's possible they'll quietly fund government and go home, without significant other damage or accomplishment.

New Mexico has an uncompensated volunteer legislature comprised of a 70 member House of Representatives and a 42 member Senate. Legislative sessions alternate between 30-day budget related sessions in even numbered years, and unconstrained 60-day sessions in odd-numbered years.

Click [here](#) to see the daily bill locator on the legislative website. We have our list of introduced tax related legislation in both chambers below.

The Legislative Council Service maintains copies of bills, compiles locators, and publishes lists of bill conflicts during the course of the session. Most information is available in a timely and electronic fashion from their rather robust website, which can be reached at <https://www.nmlegis.gov/>. The site has become increasingly functional and reliable over time. Information is reasonably up to date and legislation can be easily followed from home.

DON'T FORGET THE PRINCIPLES



It's important, particularly when dealing with tough economies, tough decisions, and the emotionally charged subject of taxes, to view the world in the context of principles. Taxes are good in that they raise the money we need to pay for the services we need. They can also be bad if they create inefficiencies, distortions, or inequities. It's a more rational approach to look at our entire tax system rather than getting lost in the weeds focusing only on a particular rate or some item we choose to tax or not tax. We must raise the revenue we need for government (putting aside the debate over how much) while doing the least harm to the economy and to those things we need most (e.g. job creation) while being fair and protecting the most vulnerable in our communities. Accordingly, we've taken the opportunity to reprint our principles of good tax policy here:

State and local taxes should be adequate to provide an appropriate level of those goods and services best provided by the public sector, such as education, public safety, law enforcement, streets and highways, and the courts.

- State and local tax policy should do the least harm to the private economy. Therefore, tax bases should be as broad as possible so that tax rates can be as low as possible in order to raise the necessary revenues.
- State and local tax policy should be fair and equitable towards individuals and businesses similarly situated. Individuals with the same income level should be taxed the same. Businesses engaged in similar commercial activities should be subject to the same level of taxation.
- State and local tax policy should not be costly to administer and should be easily understood by taxpayers so as to minimize taxpayer compliance costs.
- The state and local tax burden should be evaluated on the basis of the impact of all taxes levied on a given taxpayer, not just a single tax or tax rate.
- Deviations from established tax policy in pursuit of economic development, social or other goals should be well-reasoned and pursued only when established tax policies are not significantly undermined and the results of such deviations can subsequently be measured and evaluated.



Tax-pectations for the Session

The 30-day session has arrived. In addition to a new year, we have several new members of both houses, as well as a new Democratic leadership in the House. Being a “budget only” 30-day session, only tax/budget issues and the controversy they bring are fair game, but so are other controversial issues where the Governor chooses to allow them. It’s also the beginning of an election cycle, so you can expect some red meat. Marijuana legalization and red flag proposals will be among the most controversial this year.

As noted, most of the oxygen in the room this year will be consumed by matters of budget and taxes (as well as anything else the Governor wants to consider). The first week of a typical 30-day session moves faster than a 60-day session, but still slower than one would like. Even the short session finds time for pomp and circumstance. This year however, the fact the state has been in a healthy surplus position takes away some of the pain and angst. Rational worries now are about spending well, rather than whether we can spend at all. The December consensus revenue forecast had the legislature \$797 million to the good for 2021, despite FY20 being \$233 million (2.9%) below FY19 levels. But that’s only because FY19 included New Mexico’s share of a billion dollars in bonus payments on federal oil and gas leases that aren’t recurring. Ending reserve balances for 2019 were \$1.89 billion, or 28.9% of recurring appropriations. The December consensus revenue estimate can be found on the LFC website [here](#).

This week



Committee hearings began in earnest as bill introductions will continue through February 5th. The cannabis legalization bill in the House, Rep. Martinez’s [HB 160](#), got out of its first committee (and we added the skipped Senate companion in the Senate). was not given a committee hearing in the House Taxation and Revenue Committee, despite the sponsor being the co-chair of that committee and a key

component being a new state and local tax regime.

A couple of bills were killed in their first tax committees. That list includes Rep. Andrea Romero’s [HB 178](#), which proposes to only make the angel investment credit refundable (killed in a committee and House that passed it twice previously), Sen Padilla’s [SB 18I](#) that proposed to tax renewable energy generation. It was a constitutional version of a similar proposal last year. For those holding out hope that the state would give back some of its new found wealth to its residents, representative White’s proposal for a \$200/person personal income tax rebate in his [SB 82](#), it too was quickly killed. We mentioned last week that particularly popular this year are income tax exemptions for Social Security income. There were four (two unlimited, two limited to \$24K and \$25K SS income). Now there are five when you add Sen. Campos’ [SB 170](#). It has a \$30K SS income limitation.

Tax Reform?

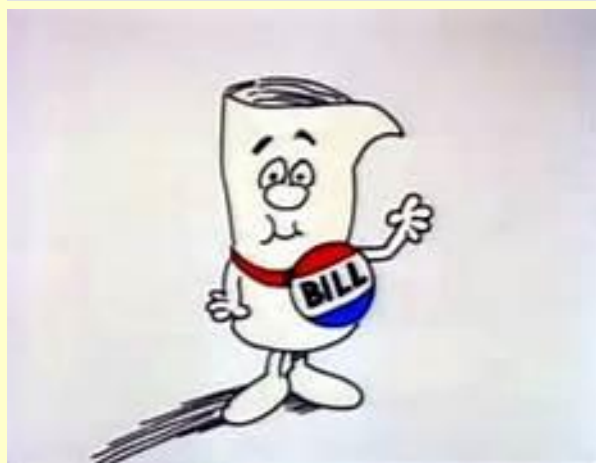
We mentioned last week that the As much as we've talked about tax reform in recent years, and despite some public comments by the Speaker and the Governor earlier that implied otherwise, sweeping tax reform is not in the cards this year. The cleanup legislation for House Bill 6 from last year – the big “tax package” was dropped Friday in the form of a bill co-sponsored by RSTP Co-Chair Javier Martinez and former Chair Jason Harper. It's found in their [HB 326](#). More on that next week...

[NMTRI note: We're pleased to see the cleanup bill co-sponsored by the tax leaders from both parties in the House – as it should be.]

Thanks For Reading

Join us weekly through the session as we try to provide balanced policy analysis, commentary and discussions of the tax and budget proposals that implicate tax policy in New Mexico. Of course, tax proposals – particularly bad ones – tend to be regurgitated (so to speak) from year to year. So, merely recalling what's been introduced (but failed to pass) in recent years will give you some idea of what will be introduced again. For confirmation of that, all you need do is scroll down to the table of bills already introduced below.

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Bills with significant tax implications Pre-filed in the 2018 Regular Legislative Session:

Note – Income Tax bills are effective tax years beginning on or after January 1, 2018 unless otherwise noted. “TYBA” = Tax years beginning on or after. Bills with an emergency clause are effective upon signature if enough votes are obtained. Bills with no effective date Other notes: “CS” indicates committee substitute; “a” indicates amended.

Bill Number/ Sponsor:	Title: Link to bill language: Description	Assignments- Location:
HB 29 Armstrong/ Dow	Social Security Income Tax Exemption HB 29 Exempts Social Security from income taxation but does not allow an overlapping deduction with that provided for the elderly in 7-2-5.2.	HLVMC/ HTRC- HLVMC
HB 77 Ely/ Tallman	Social Security Income Tax Exemption: HB 77	HLVMC/ HTRC- HLVMC

	Exempts up to \$24K in Social Security receipts from income taxation but does not allow an overlapping deduction with that provided for the elderly in 7-2-5.2.	
HB 91 McQueen	Limit Property Tax Increases: HB 91 For tax years 2022 and later, changes the limit on valuation increases for owner-occupied residences to 3% per year, or 6.1% every two years, and increases the limit for non-owner occupied homes to 10% per year or 20.1% every two years.	HLLC/HTRC -HLLC
HB 105 Brown/ Townsend	Lodgers Tax Exemption: HB 105 Expands the uses for which lodgers tax can be used and for ordinances passed after 7/1/2020, expands the lodgers tax to include all motel-like rentals in excess of 30 days and to rentals of apartments and homes with some income and other exceptions.	HLLC/HTRC -HLLC
HB 109 J Martinez	Tax Deduction for Medical Equipment: HB 109 Extends the expiring (7/1) gross receipts tax deduction found in 7-9-73.3 until 7/1/2030.	HHHC/HTRC -HHHC
HB 117 Brown	Lodgers Tax Exemption: HB 117 Expands the uses for which lodgers tax can be used and for ordinances passed after 7/1/2020, expands the lodgers tax to include all motel-like rentals in excess of 30 days and to rentals of apartments and homes with some income and other exceptions.	HLLC/HTRC -HLLC
HB 130 Armstrong/ Dow	Exempt Social Security Income from Income Tax: HB 130 Exempts Social Security from income taxation but does not allow an overlapping deduction with that provided for the elderly in 7-2-5.2.	HLVMC/ HTRC- HVLVC
HB 141 Anderson	Double Certain Income Tax Exceptions: HB 141 Doubles the personal income tax exemption scale for those age 65 and older or blind (found in 7-2-5.2) from \$1-8K to \$2-16K but does not increase the phased-in income limitations.	HCPAC/ HTRC- HCPAC
HB 145 J Martinez	Fire Suppression Tax Credit: HB 145 Creates a non-reverting fund and a modified CRS liability tax credit for qualified purchases of fire suppression equipment by a Main Street business in a Class B county in an amount up to \$50K. The credit must be pre-approved by the Economic Development Department.	HCEDC/ HTRC- HCEDC
HB 146 J Martinez	Expand Biomass Income Tax Credit & Reporting: HB 146 Extends the present law personal income tax credit found in 7-2-18.26 to 2030.	HAWC/ HTRC- HAWC
HB 148 J Martinez	Increase Working Families Tax Credit: HB 148 Expands the personal income tax credit “piggyback” of the federal earned income tax credit to from 20-30% and extends it to some otherwise ineligible for the federal credit.	HLVMC/ HTRC- HVLVC
HB 149 J Martinez	Investment Credit Act Changes: HB 149 Extends the expiring credit to 2030, increases the dollar value of qualified equipment allowed per employee, and makes the credit equal to the gross receipts or compensating tax where it applies.	HCEDC/ HTRC- HCEDC

HB 158 Powdrell- Culbert	Transfer Angel Investment Credit Review: HB 158 Moves the approval and credit reporting requirements from the Economic Department to the Taxation and Revenue Department.	HCEDC/ HTRC- HCEDC
HB 160 J Martinez	Cannabis Regulation Act: HB 160 Creates a tax and regulatory scheme for recreational cannabis. The state tax is 9% with municipal and local options up to 4% each. All revenues are earmarked.	HCEDC/ HJC-HCEDC
HB 173 McQueen	Gas Taxes, New Funds & Distributions: HB 173 Creates new funds and imposes a new evenly distributed “surtax” on gasoline and special fuels, increasing from 10 cents to 30 cents in 2025 and indexed thereafter.	HTRC/ HAFC-HTRC
HB 178 Romero	Make Angel Investment Credit Refundable: HB 178 Makes credit amounts in excess of existing personal income tax liabilities refundable (versus present law 5-year carryforward).	HCEDC/ HAFC- HCEDC
HB 179 Romero	Low-Income Housing Gross Receipts: HB 179 Amends/expands the present law GRT deduction in 7-9-60 for sales of construction material or metalliferous ore to a nonprofit organized for providing “homeownership” opportunities to “low income” families to those providing “housing” opportunities to “low and moderate” income families.	HHHC/ HTRC-HHHC
HB 200 Cadena/ Dow	Early Childhood Worker Tax Credit: HB 200 Until 2025, creates a refundable personal income tax credit up to \$1500, \$3000, or \$5000, depending on education, for “early childhood workers” who work for “early childhood providers” or are self employed. The bill also creates a gross receipts tax deduction for receipts from the sales of early childhood services pursuant to a contract with the early childhood and education department.	HCPAC/ HTRC- HCPAC
HB 201 Akhil	Energy Storage System Tax Credit Changes: HB 201 Creates a personal income tax credit equal to the lesser of 40% of cost or \$5K for the purchase and installation of energy storage systems served by rural electric cooperatives.	HENRC/ HTRC- HENRC
HB 217 Trujillo/ Cadena/ Woods/ Martinez	Electric Vehicle Income Tax Credit: HB 217 Creates a transferable personal income tax credit that varies based of \$5000 for singles making less than \$50K/year and married couples making less than on \$75K/year, and \$2500 for others for the purchase of an electric vehicle. Also creates a tax credit of up to \$300 for the purchase of electric vehicle charging units	HENRC/ HTRC- HENRC
HB 220 Ruiloba/Cro wder/Harper/ Martinez/Go nzlez	Motor Vehicle Tax Distributions: HB 220 Essentially shifts a portion of the general fund distribution (from 72 to 42%) to the state road fund and makes other technical changes.	HTPWC/HTR C-HTPWC
HB 228 Martinez/Th omson/Cabal lero	Rural Health Care Tax Credit Eligibility: HB 228 Adds occupational and physical therapists to the ever-growing list of healthcare practitioners eligible for the rural healthcare practitioner tax credit (the \$5K category versus the \$3K credit for lesser practitioners).	HHHC/HTRC -HHHC

HB 271 Ruiloba/Nibe rt/Spence Ezell	Capital Improvements Gaming Tax Credit: HB 271 Creates a gaming tax credit of \$1.5M for capital improvement expenditures at Racinos with limitations. The effect of the proposal is to reduce the effective rate of the gaming tax from 26% to 20% for Ruidoso Downs, and to 24% for Sunray Park, the only two that would qualify.	HCEDC/HTR C-HCEDC
HB 278 Armstrong/ Martinez/Th omson	Health Insurance Tax & New Fund: HB 278 Increases the health insurance premiums tax from one to three and twenty-five hundredths percent and distributes the increase to a newly created Health Care Affordability Fund.	HHHC/HTRC -HHHC
HB 282 Trujillo	Health Care Goss Receipts Providers: HB 282 Changes the deduction for in 7-9-77.1 for certain healthcare “practitioners” to “providers”, creates a new definition for “excluded entity”, and attempts to make the questionable present law policy track actual present law.	HHHC/HTRC -HHHC
HB 283 Stapleton- Williams/Ak hil	Property Tax of Solar Energy Systems: HB 283 Creates a new/favorable special valuation method for solar energy systems (beginning at 4% of value and increasing over time);	HENRC/HTR C-HENRC
HB 318 Strickler/Mo ntoya/Scott/T ownsend/An derson	Oil & Gas Tax Changes: HB 318 Creates a new definition of “anthropogenic carbon dioxide” and “posted price”; and creates a preferential tax rate (as long as the average posted price in the previous calendar year was under \$80) in the oil and gas severance tax for enhanced recovery projects so using.	HENRC/HTR C-HENRC
HB 326 Harper/Marti nez	Tax Changes: HB 326 Attempts to make technical cleanup to last year’s House Bill 6.	HTRC
SB 2 Woods/ Tallman/ Akhil	Electric Vehicle Income Tax Credit: SB 2 Creates a transferable personal income tax credit that varies based of \$5000 for singles making less than \$50K/year and married couples making less than on \$75K/year, and \$2500 for others for the purchase of an electric vehicle. Also creates a tax credit of up to \$300 for the purchase of electric vehicle charging units.	SCORC/ SFC-SCORC
SB 17 Padilla/ Hochman- Vigil/Trujillo	Tax Deductions for Broadband Infrastructure: SB 17 Creates a gross receipts and compensating tax deduction for the sale or lease of “broadband telecommunications network facilities components.”	SCORC/ SFC-SCORC
SB 18 Padilla/ Trujillo	Renewable Energy Tax: SB 18 Creates an “early childhood program fund” and imposes a tax equal to 2.5% of the production value of commercial renewable energy generation, exempting federal, state, local tribal and foreign governments.	SCORC/ SFC-SCORC
SB 20 Tallman	Fee for Electric and Hybrid Vehicles: SB 20 Imposes an additional annual registration fee of \$100 for electric vehicles.	SPREF

SB 29 Stewart/ McQueen	Solar Development Income Tax Credit: SB 29 Creates a personal income tax credit for the cost of installing solar thermal or photovoltaic systems in residential, commercial or agricultural applications. The program cost is capped at \$10M per year, and the credit has a maximum of \$6000 and can be carried forward for up to 5 years.	SCORC/ SFC-SCORC
SB 39 Papen	Tax Deduction for Durable Med Equipment: SB 39 Extends the expiring (7/1) gross receipts tax deduction found in 7-9-73.3 until 7/1/2030.	SCORC/ SFC-SCORC
SB 63 Munoz	Tenancy Tax Act: SB 63 Creates a new locally administered tax on lodging, similar to the lodgers tax.	SCORC/ SFC-SCORC
SB 68 Padilla/ White	Social Security Income Tax Exemption: SB 68 Exempts up to \$25K in Social Security receipts from income taxation but does not allow an overlapping deduction with that provided for the elderly in 7-2-5.2.	SCORC/ SFC-SCORC
SB 81 Gould/ Stefanics	Exempting Social Security from Income Tax: SB 81 Exempts Social Security from income taxation but does not allow an overlapping deduction with that provided for the elderly in 7-2-5.2.	SCORC/ SFC-SCORC
SB 82 White	Refundable Tax Credit: SB 82 Provides a refundable personal income tax, based on income and marital status, of up to \$200 per person/couple and up to \$50 per dependent.	SCORC/ SFC-SCORC
SB 84 Papen	Extend Agricultural Biomass Income Tax Credit: SB 84 Extends the present law personal income tax credit found in 7-2-18.26 to 2020.	SCORC/ SFC-SCORC
SB 85 Ortiz y Pino	Local Liquor Excise Tax Changes: SB 85 Expands the local liquor excise tax to be able to be voter imposed by all counties.	SCORC/ SFC-SCORC
SB 87 Ortiz y Pino	Increase the Working Families Tax Credit: SB 87 Expands the personal income tax credit “piggyback” of the federal earned income tax credit from 20%, and 30% for households with dependents under six years of age.	SCORC/ SFC-SCORC
SB 115 Ortiz y Pino/Martinez/ Candelaria	Cannabis Regulation Act: SB 115 Creates a tax and regulatory scheme for recreational cannabis. The state tax is 9% with municipal and local options up to 4% each. All revenues are earmarked.	SPAC/SJC/SF C-SPAC-DP- SJC
SB 116 Shendo	Enable TRD to Share Data for Tax Programs: SB 116 Expands the scope of the inter-agency confidentiality provision in 7-1-8.8 to include the sharing of return information for the administration of the healthcare quality surcharge, as well as provisions regarding sharing with DPS, EMNRD, and DOT. (RSTP committee bill)	SCORC/ SFC-SCORC
SB 117 Shendo	Valuation Increases for Low-Income Disabled: SB 117 Clarifies the enabling language in 7-36-21.3, providing for limitations for those disabled or 65 and over in the year one turns 65.	SPAC/ SCORC- SPAC

SB 119 Munoz	Lodgers Tax Exemption: SB 119 Expands the uses for which lodgers tax can be used and for ordinances passed after 7/1/2020, expands the lodgers tax include all motel-like rentals in excess of 39 days and to rentals of apartments and homes with some income and other exceptions.	SCORC/ SFC-SCORC
SB 138 Ortiz y Pino	Health Care Preceptor Income Tax Credit: SB 138 Creates a personal income tax credit in the amount \$1000 for certain healthcare professionals acting as uncompensated preceptors	SCORC/ SFC-SCORC
SB 169 Burt	Uniformed SVC Retiree Income Tax Deduction: SB 169 Creates a phased-in personal income tax deduction for military retirement income beginning at 44% and limited to \$16,333 in 2021, 66% and \$33,666 in 2022, and 100% limited to \$50,000 in 2023 and years thereafter.	SCORC/SFC- SCORC
SB 170 Campos	Social Security Income Tax Deduction: SB 170 Exempts up to \$30K in Social Security receipts from income taxation but does not allow an overlapping deduction with that provided for the elderly in 7-2-5.2.	SCORC/SFC- SCORC
SB 184 Sapien	Investment Credit Act Changes: SB 184 Extends the expiring credit to 2030, increases the dollar value of qualified equipment allowed per employee, and makes the credit equal to the gross receipts or compensating tax where it applies	SCORC/SFC- SCORC
HB 217 Tallman	Tax Distributions to Municipalities: SB 217 Reduces the 1.225% municipal distribution to local governments from the state's share of the gross receipts tax, and creates a distribution to local governments equal to the greater of the	SCORC/SFC- SCORC
SB 227 Neville	Health Gross Receipt Deduction Eligibility: SB 227 Changes the deduction for in 7-9-77.1 for certain healthcare "practitioners" to "providers", creates a new definition for "excluded entity", and attempts to make the questionable present law policy track actual present law.	SCORC/SFC- SCORC

KNICK KNACKS

NMTRI Publishes Preliminary New Study

NMTRI is also working on finalizing the 2019 study endeavoring to answer the question of exactly how much does the oil and gas industry contribute to New Mexico coffers? Retired but always serving former DFA Secretary, TRD Tax Policy Director, and chief economist from the New Mexico Taxation and Revenue Department and Department of Finance and Administration, Dr. Tom Clifford, has served as our primary researcher and has done yeoman's work to compile the voluminous data involved in such a mammoth undertaking.

Here's the preliminary results for the general funds share of oil and gas contribution: we're as dependent as ever we seem to have hit a high water mark of almost 39% in 2019. The preliminary report can be found on our website [here](#).

FY19 Oil and Gas Share of General Fund Revenue (Dollar amounts in millions)

Revenue	Total	Oil & Gas Share	Oil & Gas Amount	O&G Revenue Change from FY18
Gross Receipts Tax	\$2,669	12.2%	\$326	\$138
Compensating Tax	\$78	22.3%	\$18	\$5
Personal Income Tax	\$1,672	7.2%	\$127	\$30
Corporate Income Tax	\$23	13.0%	\$3	-\$20
Oil & Gas School Tax	\$555	100.0%	\$555	\$105
Oil & Gas Conservation Tax	\$29	100.0%	\$29	\$6
Natural Gas Processor's Tax	\$15	100.0%	\$15	\$4
Land Grant Permanent Fund Dist.	\$639	96.7%	\$618	\$50
Severance Tax Permanent Fund Dist.	\$221	86.6%	\$191	\$9
Federal Mineral Leasing	\$1,147	99.0%	\$1,135	\$594
State Land Office Bonuses, etc.	\$133	71.9%	\$95	\$16
Other	\$813	0.0%	\$0	\$0
Total Recurring Revenue	\$7,993	38.9%	\$3,111	\$910

Sources: DFA General Fund Report. Oil and Gas share estimated as described in this report.

TAX QUOTABLES

“Taxes are not good things, but if you want services, somebody's got to pay for them so they're a necessary evil.”

~ *Michael Bloomberg*

The term "tax humor" is no doubt an oxymoron to many people; to the more cynical, it is an apt description of the entire tax code.

~*John F. Iekel*

It's tax time. I know this because I'm staring at documents that make no sense to me, no matter how many beers I drink.

~ *Dave Barry*



COMMENTS: Your suggestions and comments on this newsletter, the conferences (past or future), the Distinguished Lectures Series, our research or any aspect of NMTRI's operation and programs are welcome. Please send them to richard.anklam@nmtri.org, call 505-269-6791 or mail them to P.O. Box 91657, Albuquerque, New Mexico 87199-1657. We genuinely solicit your input and thank you for your support.



"The power to tax involves the power to destroy" - McCulloch v. Maryland, 17 U.S. 316 (1819), Chief Justice John Marshall.

“Taxes are what we pay for civilized society” *Campania General de Tabacos v. Collector*, 275 U.S. 87, 100 (1927), Justice Oliver Wendell Holmes, dissenting.

Join NMTRI today!