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CONSTITUTION PARTY Report:

The Fair Tax

Why We Oppose It

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- * The Fair Tax's ability to generate more or less revenue depends upon the calculation method. It will vary year by year depending upon retail sales. An economic downturn would mean less revenue. A strong economy would mean more revenue, same as under the current income tax system.
- * The effect of the Fair Tax upon the economy can be shown to have both positive and negative effects, depending on who's doing the accounting and the formulas used.
- * It allows a border tax adjustment to encourage international businesses to locate in the U.S.
- * Repeal of the 16th Amendment would be essential to prevent a return of the income tax, but this would not affect state income taxes. Repealing this Amendment would be difficult and not assured.
- * Payment compliance burden will be upon businesses not individuals as the tax is included in the cost of the good or service. Businesses must have a resale certificate and keep sales records for seven years, report sales every month, and provide a detailed receipt to every purchaser. There are fines and penalties attached for non-compliance.
- * Under the Fair Tax, goods purchased for legitimate business use would not be taxable, applying to businesses, religious organizations, and non-profits. In a family business, only goods used strictly for the business would remain untaxed.
- * The Fair Tax might encourage more savings and investment as income earned and saved would not be taxed until spent, though the transition period may see income, investments, and savings taxed.
- * The Fair Tax might increase transparency in government costs and spending.
- * Social Security benefits would be adjusted by prices, an increase in prices = an automatic increase in the amount of benefit payments.
- * It will create a brisk underground economy in "used" goods, resulting in more recycling/reuse of existing goods. Some people will max out their credit cards buying durable goods to avoid paying the Fair Tax.
- * Illegal immigrants will "legalize" to receive the FCA.
- * The Fair Tax removes tax deduction incentives, such as charitable contributions and the mortgage interest deduction, and the tax advantage of state and local bonds.

- ★ **The Fair Tax is an unapportioned direct tax upon the people.** As such, it is not authorized by the 1787 Constitution, nor is it authorized under the 16th Amendment which changed the original intent of the founding fathers by implementing a personal income tax. Without seeing any constitutional authority whatsoever to support the case in favor of the Fair Tax, the Constitution Party cannot support it.
- ★ **The Fair Tax does not guarantee a lower overall level of taxation.** In fact, it could result in a higher level of taxation than is currently being paid by Americans. The initial rate of 23%, coupled with the approximately 9% sales tax currently being paid by Washington State residents, would make a 32% tax rate with no guarantee against Congress raising that rate in the future.
- ★ **The Fair Tax does not provide a simplified means of taxation.** It replaces one complex system of taxation with another that is equally convoluted. The only real difference is that it moves taxation from being placed on a person's income to being placed on their expenses. It still requires an annual registration of household members and their Social Security numbers.
- ★ **The Fair Tax continues and expands the welfare state.** The "Family Consumption Allowance" (FCA) is provided to every registered household, regardless of income. If implemented, it is estimated that the FCA would constitute the single largest entitlement program in American history.
- ★ **The Fair Tax expands the size of government.** It eliminates one agency, the Internal Revenue Service, but creates multiple agencies to in its place, including an Excise Tax Bureau, Sales Tax Bureau, and state agencies, where the primary collecting of revenues would take place.
- ★ **The Fair Tax makes states the primary tax collection agency.** The distinction between state and federal government is further eroded by making states the primary collection agency. It also

requires state taxing authorities to annually register every household and household member in the state, accelerating the current trend towards treating states as mere political subdivisions of the federal government thus putting the Constitutional principle of state sovereignty (the 10th Amendment) in even greater peril.

- ★ **The Fair Tax is socialistic in nature.** This allows for the continuation and expansion of big government and high taxes, ignoring the intent of the framers of our U.S. Constitution. [Note: We would like to add or modify with the following text: the Fair Tax is a new method of funding extra-Constitutional activities outside the enumerated powers of the General Welfare clause, ignoring the clear intent of the Article I, Section 8 powers of Congress.]
- ★ **The Fair Tax does not fix what is wrong in America.** Only the electing of individuals with a good understanding of America's founding principles and a firm commitment frugality and fiscal accountability can fix what the Fair Tax pretends to address.

What the Constitution says about Taxes

(All definitions are derived from Noah Webster's 1828 dictionary to determine the best understanding of the intent of the framers of the Constitution of the United States)

DEFINITIONS:

- ★ **Tax:** a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or state; they are annual or perpetual; includes all forms of imposition (or the imposing of) a burden upon the citizen.
- ★ **Duties:** a tax that is required by government to be paid on the importation, exportation, or consumption of goods.

The Fair Tax includes a “Family Consumption Allowance” (FCA):

- * The FCA is paid to all lawful US residents in a family household. It is based on family size, regardless of income, that is equal to the estimated total of poverty level spending according to poverty statistics provided by the Department of Health and Human Services. Households register annually with their state taxing authority, providing names and Social Security numbers of each household member.
- * The FCA will be annually adjusted using a predetermined formula according to federal receipts of the previous fiscal year, and will be adjusted for inflation.
- * The FCA will be paid through the Social Security Administration. Monthly payments will be sent to each registered household by paper check via US mail, by electronic funds transfer to a bank account, or by the issue of a “Smart Card” that functions as a debit card.
- * The FCA will pay 100% of the retail sales tax of households under the predetermined poverty level.
- * Households above the predetermined poverty level will pay all sales taxes above the FCA, showing the Fair Tax to be a progressive tax.
- * The FCA would cost \$489 billion if 100% of households registered and complied. The current income tax system is estimated to cost \$945 billion, which is \$456 billion more than the estimated cost of the FCA, creating the largest entitlement program in American history, costing more than all budgeted spending in 2006 on the Departments of Agriculture, Commerce, Defense, Education, Energy, Homeland Security, Housing and Urban Development, and Interior combined.

Other facts to note:

- * The Fair Tax dismantles the Internal Revenue Service three years after the legislation takes effect, replacing it with the Excise Tax Bureau and the Sales Tax Bureau, both functioning in the Department of Treasury. Loss of jobs and businesses will occur in both government and the private sector.
- * The Fair Tax grants primary authority for collection and remittance of sales tax revenues to the states, which would simplify the filing process with the states retaining .025% of the total revenues collected; also making compliance easier.

FAIR TAX FACTS

The Fair Tax replaces ALL federal taxes on goods or services not considered to be final consumption goods or services, including:

- *Personal Income Tax
- *Corporate Income Tax
- *Payroll Taxes
- *Medicare Tax
- *Estate Taxes
- *Investment Tax
- *Export Taxes (on goods leaving the United States)
- *Intermediate Business Transaction Taxes (manufacturer to wholesaler to retailer)
- *Alternative Minimum Tax
- *Capital Gains Tax
- * Social Security Tax
- *Gift Tax
- *Savings Tax
- *Education Tuition Tax

The Fair Tax would be included in the price of a good or service rather than added on after sales are tallied. The receipt would show the percent of the tax but not the actual amount of the tax. (An item priced at \$100 would actually cost \$77.00 before the 23% retail sales tax was added, thereby masking the real cost of the good or service, as well as the real cost of the tax.)

The Fair Tax is a single national Consumption Tax (Retail Sales Tax), levied ONCE at the final point of purchase on all new goods and services:

- *Health Care Services
- *Financial Services
- *Auto Repairs
- *Other Real Property Rentals
- *Any good used for personal consumption
- *Any service used for personal consumption
- * ALL retail internationally imported purchases, such as a car or a boat, to be collected by US Customs and Border Protection.
- *Legal Services
- *Haircuts
- * Apartment Rentals
- *ALL Internet Purchase

“Used” (and therefore untaxable) is defined as any good owned by a consumer when the tax takes effect, or if the Fair Tax has previously been paid.

- ★ **Imposts:** a tax or duty laid by government on goods imported, at the time of the importation, and required at the hands of the importer.
- ★ **Excises:** a tax or duty laid by government on commodities consumed or retail sales at the point of sale.
- ★ **Common Defence:** right of the government and its citizens to be defended and protected in their rights against all enemies.
- ★ **General Welfare:** exemption from any unusual evil or calamity; the enjoyment of peace and prosperity, or the ordinary blessings of society and civil government.
- ★ **Capitation:** a tax or imposition upon each head or person, also known as a “poll tax”.
- ★ **Direct Tax:** an impost on land or other real estate, and on the stock of farmers.

Article 1, section 8: *The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;*

The original Article 1, section 9, clause 4: *No capitation, or other direct Tax, shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken. (This was changed by the 16th Amendment.)*

16th Amendment: *The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.*

Article 1, section 9, clause 5: *No Tax or Duty shall be laid on Articles exported from any State.*

Article 1, section 10: *No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary.*

The Constitution Party Plan to restore the Constitutionally-correct System of Taxation

The Constitution, in Article I, Section 8, gives Congress the power *"to lay and collect Taxes, Duties, Imposts, and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States."*

In Article I, Section 9, the original document made clear that *"no Capitation, or other direct Tax shall be laid, unless in Proportion to the Census of Enumeration herein before directed to be taken."* It is moreover established that *"No Tax or Duty shall be laid on Articles exported from any State."*

Since 1913, our Constitutional rights to life, liberty, and property have been abridged and diminished by the imposition on each of us of Federal income, payroll, and estate taxes. This is an un-constitutional Federal assumption of direct taxing authority.

The Internal Revenue Service is the enforcement arm of the Federal government's present unjust tax system. Citizens, both in groups and as individuals, have repeatedly sought responses from the IRS bureaucracy as to the basis for the agency's tax policies and procedures. No answers have been forthcoming although a responsible government must be answerable to the people and has a duty to those it is supposed to serve.

We propose legislation to abolish the Internal Revenue Service, and will veto any authorization, appropriation, or continuing resolution which contains any funding whatsoever for that illicit and unconstitutional agency. We are opposed to the flat-rate tax, national sales tax, and value added tax proposals that are being promoted as an improvement to the current tax system. The Sixteenth Amendment does not provide authority for an un-apportioned direct tax.

Moreover, it is our intention to replace the current tax system of the U.S. government (including income taxes, payroll taxes, and estate taxes), with a tariff based revenue system supplemented by excise taxes.

To the degree that tariffs on foreign products, and excises, are insufficient to cover the legitimate Constitutional costs of the federal government, we will offer an apportioned "state-rate tax" in which the responsibility for covering the cost of unmet obligations will be divided among the several states in accordance with their proportion of the total population of these United States, excluding the District of Columbia. Thus, if a state contains 10 percent of the nation's citizens, it will be responsible for assuming payment of 10 percent of the annual deficit.

The effect of this "state-rate tax" will be to encourage politicians to argue for less, rather than more, federal spending, and less state spending as well.

To the extent permitted by the Constitution, we believe that the taxation of corporations--as opposed to individuals--is an appropriate source of government revenue. The Supreme Court has defined "income" as a "gain or increase arising from corporate activity or privilege." People are not corporations, and corporations need not be treated as "people" for the purposes of taxation. [The original intent of the 16th Amendment was to tax income derived from invested capital, not the wages of personal labor.]

There is substantial evidence that the 16th Amendment was never legally ratified. When elected, we will act to cease collection of direct Federal personal income taxes. We also support ratification of the Liberty Amendment which would repeal the Sixteenth Amendment, and provide that *"Congress shall not levy taxes on personal incomes, estates, and/or gifts."*

We support the use of motor fuel excise taxes, at rates not in excess of those currently imposed, to be used exclusively for the erection, maintenance, and administration of Federal highways. These taxes should never be used for "demonstration projects", mass transit, or for other non-highway purposes.

We support the use of excise taxes to curb the use of tax dollars for media advertising, and to provide so-called "tax abatements," "tax incentives," and "economic development grants," which are pretexts to raid the public treasury and rob the workingman for the benefit of wealthy interests favored by the politicians.