

Hart is set to tackle taxes

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By William L. Spence of the Tribune

Embattled Idaho lawmaker wants state to dump tax on wages, salaries

Phil Hart...

The northern Idaho lawmaker at the center of a House ethics investigation hopes to introduce legislation next year that would eliminate the state income tax on wages and salaries.

Rep. Phil Hart, R-Athol, said his proposal would bring Idaho's tax code back in line with what the income tax was originally intended to be: a tax on business and investment profits, rather than on wages.

"This issue is fundamental to Idaho's (economic) revitalization," Hart said. "I don't think our economy is going to recover until we figure out how to bring jobs back from overseas. We can't do anything about that at the state level, but we can make Idaho more attractive than the other 49 states."

Hart has an abiding interest in income tax law. He refused to pay his for about seven years, saying the tax is unconstitutional. That led to an extended court case, followed by multiple audits, lawsuits, and hundreds of thousands of dollars in federal tax liens, penalties and other payments.

More recently, the 54-year-old civil engineer and three-term lawmaker became the subject of a rare legislative ethics complaint. A seven-member ethics committee meets Thursday to consider whether he used his status as a legislator to gain special treatment in a dispute with the Idaho State Tax Commission, and whether his position on the House Revenue and Taxation Committee represents a conflict of interest.

Hart's tax odyssey started in 1995, when "some guy" stopped him at a trade show and suggested he buy a book regarding the "unconstitutional income tax and how not to pay it."

"I thought the book had some substance," he said. "When I filed my taxes that year, I asked for a refund. That was 15 years ago and I'm still trying to get closure."

Once it became apparent a refund wasn't forthcoming, Hart stopped paying taxes. That attracted the attention of the Internal Revenue Service. He then enrolled in a paralegal program, "preparing for battle."

He also began researching the historic purpose of the income tax and the origins of the 16th Amendment, which authorized the federal income tax. He reviewed law and economics journal articles from 1909-1913, when the amendment was proposed and ratified. He read the Congressional Record to see what lawmakers said about the issue, as well as hundreds of newspaper articles covering the wider, national debate.

"I read most of the literature out there about the income tax," Hart said. "I was highly motivated to get up to speed."

He took the IRS to court and lost after three years. He appealed that ruling to the 9th U.S. Circuit Court of Appeals. Upon losing there he petitioned the Supreme Court in 2002, but it declined to take up his case.

Throughout this time, Hart wasn't paying any personal income tax - something he now concedes was a mistake. Had he paid his taxes and asked for a refund, as he did in 1995, he wouldn't now be facing hundreds of thousands of dollars in back claims.

"I was absolutely convinced I was right and that I was going to win," he said of that decision. "But now I always tell people, 'Don't do what I did. File a return. Pay your taxes, and if you have a problem with it, talk to your representative.' I've come to the conclusion this is something that needs to be dealt with politically. I don't expect a judge to completely revamp the tax system."

The tax battles continued since the 2002 decision. Hart said he's paid about \$120,000 in back taxes, but the IRS denied all his business deductions. It says he owes more than his returns indicate; he disagrees, and thinks he's being punished for writing his own book questioning the constitutionality of the income tax.

The IRS tried to get the names of the people who bought the book, he said, but eventually backed off. If not for that, he feels the whole situation would have been wrapped up several years ago.

"I just hope I can be treated the same as any other taxpayer," he said.

Despite all these troubles, Hart said he hasn't changed his opinion about the income tax. Proponents of the 16th Amendment never saw it as a tax on wages and salaries, he said. It was supposed to be a means of tax relief for the average American.

At the time it was proposed, Hart said, the working class received little benefit from the federal government. Social Security, Medicare/Medicaid and other entitlement programs hadn't been created. The court system, regulation of commerce and military protected the interests of wealthy, propertied Americans - yet much of the government's revenue came from consumption taxes, which put a disproportionate share of the burden on the working class.

The idea behind the income tax, he said, was to tap business and investment profits and use that revenue to reduce tariffs on consumer goods.

The amendment "wasn't a soak-the-rich scheme," Hart said. "It was an attempt to make the people who benefit from government pay for it. The whole purpose was tax relief for wage earners."

That's the model he'd like to get back to at the state level. His bill would continue to tax investment earnings and business profits. Labor, however, is a wash. Workers don't profit from their labor, Hart said. They exchange their time for money, in equal value; there's no gain, so there's nothing to tax.

He's unsure if the ethics investigation and uproar over his unpaid taxes will undermine chances to get the bill approved, but he's trying to get his message out. He's working with two certified public accountants to confirm that his business deductions were legitimate and that his returns were accurate. He'd like them to write letters outlining their findings, so he can post them on his website.

"I want people to have confidence in me," Hart said. "I feel like I need to back up what I say with something tangible, so people can verify what I'm saying is accurate ... I'm hopeful I can get through this and my credibility stays intact."

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