

of officers, or payments to persons in the civil, military, naval, or other employment or service of the United States, including senators and representatives and delegates in Congress, when exceeding the rate of six hundred dollars per annum, a duty of three per centum on the excess above the said six hundred dollars; and it shall be the duty of all paymasters, and all disbursing officers, under the government of the United States, or in the employ thereof, when making any payments to officers and persons as aforesaid, or upon settling and adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of three per centum, and shall, at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal duties;...

Sec. 90. And be it further enacted, That there shall be levied, collected, and paid annually, upon the annual gains, profits, or income of every person residing in the United States, whether derived from any kind of property, rents, interest, dividends, salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, except as hereinafter mentioned, if such annual gains, profits, or income exceed the sum of six hundred dollars, and do not exceed the sum of ten thousand dollars, a duty of three per centum on the amount of such annual gains, profits, or income over and above the said sum of six hundred dollars; if said income exceeds the sum of ten thousand dollars, a duty of five per centum upon the amount thereof exceeding six hundred dollars;..." (The section goes on to extend the tax to citizens residing abroad who are not

government workers at a rate of 5% and without the \$600 exemption).

Sec. 93. And be it further enacted,...that any party, in his or her own behalf,...shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, that he or she was not possessed of an income of six hundred dollars, liable to be assessed according to the provisions of this act, or... has been assessed elsewhere... and shall thereupon be exempt from an income duty; or, if the list or return of any party shall have been increased...,... he or she may be permitted to declare,... the amount of his or her annual income,... liable to be assessed,... and the same so declared shall be received as the sum upon which duties are to be assessed and collected.

So, in 1862, in the first artless and innocent iteration of an American “income” tax, an excise with provisions for withholding is laid upon the pay of government workers. At the same time, the excise is separately laid upon “*gains, profits, or income*” that might be *derived from* the pay (or other sources) of private-sector persons and government workers alike (such as through investments in taxable entities).

By its explicit, separate, and otherwise unnecessary identification in section 86 of the remuneration (pay) of government workers as taxable-- and taxed-- this original enactment provides a rare, forthright statutory acknowledgement that the remuneration of private-sectors workers is not. After all, if “*gains, profits, or income derived from*” pay is the same thing as the pay itself, the pay of government workers identified in section 86 would be being taxed under section 90, and the relevant portion of section 86 would be nonsensically superfluous. This clearly lawful distinction will not, and could not, change through the many