

CHAPTER ELEVEN



A Prurient Interest

Having already seen many of her videos, your editors admit to being more excited by the thought of Madonna's naked tax return than by Madonna herself.

—Shop Talk, *Journal of Taxation* (September 1999)

Income tax return information was once a public record. The Civil War income tax contained no provision either permitting or requiring publicity. Nevertheless, income tax lists were printed, resulting in the widespread publication of personal incomes. Lacking modern methods for determining persons subject to the income tax, publication of lists was considered a primary means for detecting non-filers as neighbors might snitch on anyone understating income.

Tabulating machines hadn't yet been invented. Information had to be hand-matched. Income tax return lists were kept by name and address. Once a person's name was put on the tax rolls, it stayed there until he proved that his income had fallen below the filing threshold.

Only a minority of citizens — the high earners — were subject to income tax, and therefore, publicity. To save space, newspapers only published names with reported incomes over \$10,000. Those were the ones of major interest to the general public. William B. Astor topped the list with incomes of \$854,000, \$1,300,000, and \$1,079,000 in 1863, 1864, and 1865, respectively. Cornelius Vanderbilt was a distant second at half the earnings of Astor.

A delightful 1865 song about publicity of tax lists demonstrated the potential for mischief. In the song, a man had borrowed every valuable he could from friends, sold them for cash, then handed the money to the income tax clerk, claiming it was taxes on his falsely inflated income.

While eagerly scanning the paper, next day,
To his great delight, did appear
His name, with his income in figures set down
At full twenty thousand per year.
The plan was successful.. he married the girl:
And, though he was not worth a pin,
His wits got a wife who had plenty for both:
And That's where the laugh comes in!

Congress banned publication of tax lists in 1870, but inspection by individuals at the local collector's office was allowed to continue.

Repeal of the Civil War income tax in 1872 brought an end to publicity — until the 1909 corporation income tax. Far more onerous than this mere one percent tax was the public inspection of the income tax return itself. That would make the business' financial affairs a public record, even for privately held corporations. The art of tax planning was born as accountants advised corporations on taking depreciation and changing from the corporate form to non-taxable partnerships or associations.

Before any disclosure took place, protests led to the 1910 repeal of corporate return public inspection. Thereafter, the law provided that income tax records would be considered public records and open for inspection only upon order of the president. J. Edgar Hoover would rely on this directive for his FBI to snoop through Internal Revenue income tax records starting in 1931.

Publicity was resurrected in 1924, and 1923 return information was soon released. The name, address and amount of tax paid again became a public record. Reading about your neighbor's income, and that of celebrities, turned into a national pastime.

Most inspection requests came from women. A young woman wanted to know how much her fiancé made. A woman separated from her husband sought to determine how much alimony to claim. Others simply wanted to know how much their husbands earned. "I'm finally going to know how much my husband makes," a woman told the *New York Times*. "For years I have suspected that