

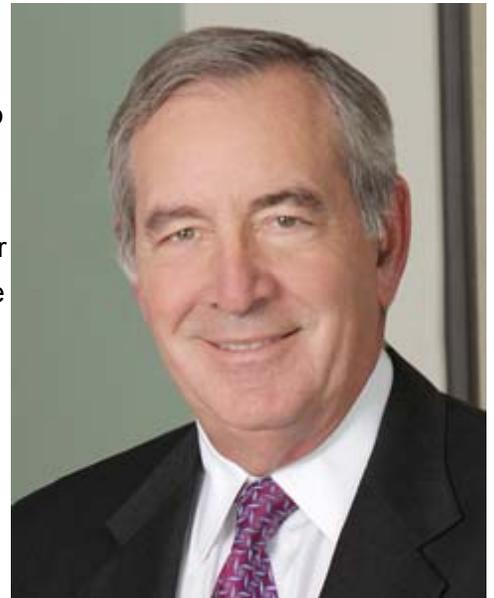
# Muhammad Ali in the Time of the 'Maxi Tax'

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By

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In this article, Skillman reminisces about his time working as a tax attorney for Muhammad Ali and describes how perceptions of the income tax system have since changed.

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On September 28, 1976, Muhammad Ali retained his heavyweight crown in a unanimous but questionable decision over Ken Norton in their third fight at Yankee Stadium. Shortly after the fight, through Mortimer Caplin, who turned 100 last month and was a well-regarded college boxer decades before serving as commissioner of internal revenue,<sup>1</sup> our firm was engaged as Ali's tax counsel. Then the youngest partner in the firm, I spent much of the following year dealing with Ali and his 1976 income tax liability. It was scarcely sophisticated tax work, but it was an eye-opening diversion from the button-down world of tax lawyering. Looking back to that time is also a reminder of how much the income tax system, its surrounding politics, and taxpayer perceptions of reasonable tax burdens have changed over the last 40 years. Despite Ali's public image in the 1960s as an anti-government racial militant, he never challenged or complained about his substantial income tax obligations -- quite to the contrary, as I came to understand.

Five years before the Norton fight, in another unanimous but questionable decision, the Supreme Court reversed Ali's conviction for refusing induction into the armed services based on his conscientious objector claim, which was muddied by Ali's proclaimed willingness to fight in a holy war declared by Allah. It was not just his religious teachings; Ali also famously said, "I got nothing against no Viet Cong. No Vietnamese ever called me a . . ." Nonetheless, following a rationale not unlike that of "reasoned decision-making" challenges to tax regulations,<sup>2</sup> the Supreme Court reversed Ali's conviction because the Selective Service Appeals Board had not denied Ali's conscientious objector claim on the specific ground that he was not opposed to war in any form.<sup>3</sup> If not for Ali's celebrity and the growing unpopularity of the Vietnam War, the Supreme Court likely would not have granted certiorari, much less reached for that procedural technicality to reverse his conviction. Reflecting shifting public attitudes toward the war and Ali, the Court received little criticism for its decision.

By the time Ali regained the heavyweight championship with his stunning and unexpected knockout of George Foreman in Zaire in 1974, he had become firmly ensconced as the most popular athlete and almost certainly the most recognizable person in the world. The more mature Ali no longer projected a militant image, and the many who had vilified Ali for his draft resistance and outspoken support for the early separatist tenets of the Nation of Islam were no longer vocal. Ali had become so widely admired that President Ford welcomed him to the White House at

the end of 1974 (still, it is impossible to visualize Ford's predecessor having done that). A number of Ali's advisers and well-wishers thought that was a good time for him to retire from boxing, and many more thought so a year later after Ali's epic third fight with Joe Frazier in Manila; Ali won when Frazier was unable to answer the bell for the 15th round, but that fight also took a brutal toll on Ali. By the time of his 1976 fight with Norton, Ali's reflexes and skills as a boxer had demonstrably eroded, although his gate appeal had not. Ali's share of that purse was \$6.1 million, the largest of his boxing career to that date.

Dating back to Joe Louis and later Ingemar Johansson, collecting income taxes from the purses of prize fighters was problematic. In contrast with Ali, the staunchly Republican Louis had volunteered to serve in the army during World War II and had even donated fight purses to the Army and Navy. Nonetheless, the latter part of Louis's career and life was consumed by his efforts to climb out of tax debt. It didn't help that the top marginal rate had risen to more than 90 percent during World War II, so additional fights left Louis with little after-tax income to pay off old assessments. By the time of his last fight, against Rocky Marciano, in 1951 -- for which Louis's purse was \$300,000 -- the marginal income tax rate (for a single person, such as Louis at the time) hit 73 percent at \$44,000, 89 percent at \$100,000, and 91 percent at \$200,000 of taxable income. It was not until the early 1960s that the IRS relented in its collection efforts against Louis and entered into a compromise agreement that allowed him to pay \$20,000 per year to satisfy his prior tax obligations.<sup>4</sup> By Johansson's time, the IRS had begun to use termination assessments payable immediately after the fight, impose liens on gate receipts, and obtain restraining orders to prevent promoters from paying the fighters until the liens were satisfied. Roy Cohn, a notorious character and bad taxpayer in his own right, was among the promoters held personally liable for the unpaid tax liens from Johansson's third fight with Floyd Patterson.<sup>5</sup>

In Ali's case, the IRS was satisfied to have an amount sufficient to satisfy his income tax liability from a fight purse held in escrow by a responsible third party until tax payments were due. For Ali's third fight with Norton, about one-third of Ali's prize money was entrusted to an attorney, who will go unnamed here, to hold for payment of Ali's 1976 tax liability.<sup>6</sup> Shortly after our firm was engaged, we began to have concerns -- based on unanswered questions and vague reassurances from that attorney -- over whether the tax money had been set aside and prudently invested. Things didn't smell right. When we were finally able to lay our hands on bank statements and canceled checks, we learned that the attorney had spent much of the tax money in escrow on antiques, on lavish trips and meals, and at the gaming tables in Las Vegas. Only a fraction was left to pay the IRS, and the eventual judgment against the attorney yielded little more. In hopes of reducing Ali's tax liability, we spent a lot of time trying to identify and substantiate deductible business expenses from Ali's limited records, but it was almost impossible to distinguish payments for legitimate expenses from the numerous "loans" and "investments" to Ali's many friends and acquaintances, to whom Ali was unable to say no. For all of that, I also learned that Ali had some true friends who were not in it for the gravy train.

In trying to sort out the chaos, I spent substantial time with Ali at his home, his training camp, and other locations. I first met him when I showed up uninvited at his home in Chicago, introduced myself, and nervously told him that there was a big problem with his tax money. Contrary to his public persona, Ali was then and always soft-spoken, respectful, and remarkably unperturbed by his tax situation. He had faced and overcome more frightening challenges (Sonny Liston, Foreman, and a five-year prison sentence for refusing induction into the armed services) and never seemed worried about mere money problems. In the end, Ali's 1976 tax liability was paid, but as before and for several years after, he was left with little money in the bank.<sup>7</sup> Our relationship with Ali ended after 1977, and for me it

was back to real-world clients. One of my most lasting impressions from this brief relationship was Ali's refreshing view of his income tax obligations -- that the amount of his earnings owed as taxes never belonged to him in the first place.

Now almost forgotten, the Tax Reform Act of 1969 enacted section 1348, which imposed a 50 percent maximum rate of income tax on "personal service taxable income," which unquestionably encompassed income for boxing. In 1976 the marginal rate on other income exceeded 50 percent for taxable income more than \$52,000 (for joint returns) and topped out at 70 percent for taxable income more than \$200,000. The 50 percent "maxi tax," as it was called, thus provided substantial tax relief to many taxpayers. Nonetheless, in a disclaimer that would not be made today, the House Ways and Means Committee insisted that the maxi tax "was adopted not as a tax relief measure but to reduce the pressure for the use of tax loopholes."<sup>8</sup> Still, the maxi tax provided more tax relief than the Senate Finance Committee was willing to accept, and the conference committee adopted it only after reducing the income qualifying for the 50 percent rate by a taxpayer's preference items under the newly enacted minimum tax.<sup>9</sup> Because of the revenue cost, the maxi tax was not fully phased in until 1972.

Before TRA 1986 altered perceptions of acceptable marginal income tax rates, our firm did more than a little work for corporate executives and others who wanted assurance that their compensation or other earned income would qualify for the 50 percent maxi tax; I do not recall any client calling the 50 percent marginal rate excessive.

Ali's view of the maxi tax was more than accepting, and the 50 percent rate gave him a simple equation to describe who owned what share of his earnings. Herbert Muhammad (son of Elijah Muhammad), Ali's manager during this period, was contractually entitled to one-third of his gross winnings (which was standard in the fight game); that was one of the only business expenses Ali could readily substantiate, and other deductions did not enter into Ali's tax calculus. So, as Ali more than once explained to me, "one-third belongs to Herbert, one-third belongs to the government, and one-third belongs to me." It was not that the government (or Herbert) was taking one-third of his earnings, but that his share of the pie never exceeded one-third. Maybe Ali was content with the one-third share left to him by the 50 percent maxi tax because that was generous compared with the much smaller fraction that the income tax laws had left to Louis and even to Ali himself when he first attained the heavyweight championship in the 1960s. Or maybe Ali was just not a grasping person. However, I understood Ali to be implying something more basic about the source of his and everyone else's income -- that it ultimately comes from other people, who in turn derive their income from other people, all of whom need a functioning economy and legal system and thus a government to generate their income. The government, in this view, is the taxpayer's necessary partner. I've probably read too much into my tax conversations with Ali, but that's how I choose to remember them.

Thinking back to the time of the maxi tax, it is hard not to be a little wistful about how the code was then and how Rep. Wilbur Mills, Sen. Russell Long, and other congressional leaders acted as stewards of the tax system. It was not a time when the IRS was denied the budget needed to do its job (which involved many fewer responsibilities than it does today) or when members of Congress fomented antitax sentiments by taking cheap shots at the IRS or its commissioner. The code certainly had its share of anomalies and embedded political giveaways, but Congress made no attempt to obfuscate marginal tax rates. The 50 percent maxi tax was not marketed like a gallon of gasoline at 49.6 percent, there was no additional marginal rate masked as a limitation on itemized deductions,<sup>10</sup> and there was no additional income tax on investment income falsely labeled as a Medicare contribution.<sup>11</sup> It was a more honest, less sheepish tax code, allowing taxpayers such as Ali to understand and accept what tax was due. It was a very

different time in many ways.

## FOOTNOTES

<sup>1</sup> See David van den Berg, "Conversations: Caplin Reflects on His Time as IRS Commissioner," *Tax Notes*, July 11, 2016, p. 196 .

<sup>2</sup> See, e.g., *Altera Corp. v. Commissioner*, 145 T.C. 91 (2015) .

<sup>3</sup> *Clay v. United States*, 403 U.S. 698 (1971).

<sup>4</sup> Legend has it that Louis's unpayable tax burden was the reason why offers in compromise were authorized, but in fact [section 7122](#) recodified section 3761 of the 1939 code.

<sup>5</sup> See *United States v. Johansson*, 447 F.2d 702 (5th Cir. 1971); see also *Johansson v. United States*, 336 F.2d 809 (5th Cir. 1964).

<sup>6</sup>[Section 6851](#).

<sup>7</sup> Ali regrettably kept fighting until his humiliating losses to Larry Holmes in 1980 and Trevor Berbick in 1981. With his deteriorating condition, those fights never should have been allowed.

<sup>8</sup> H.R. Rep. No. 91-413 (pt. 1), at 208 (1969).

<sup>9</sup> See H.R. Conf. Rep. No. 91-782, at 329 (1969); and former section 1348(b)(2)(B).

<sup>10</sup> See [section 68](#).

<sup>11</sup> See [section 1411](#) and title to chapter 2A. Although the 3.8 percent tax on net investment income for taxpayers whose adjusted gross income exceeds a threshold matches up with the additional FICA and Self-Employment Contributions Act taxes paid on the wages and self-employment income of high earners, it is an income tax and is not dedicated to the Medicare trust fund.

## END OF FOOTNOTES

### DOCUMENT ATTRIBUTES

CODE SECTIONS

SECTION 1348 -- MAXIMUM TAX ON EARNED INCOME (R)

MAGAZINE CITATION

TAX NOTES, AUG. 8, 2016, P. 883

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