

Joint Tax Committee's Secret Public Service

Jeffrey H. Birnbaum
BGR Public Relations and Fox News

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Comments welcome.

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By Jeffrey H. Birnbaum

Taxation is a dichotomy. On one hand, everybody pays taxes and, therefore, cares a lot about them. On the other hand, the language and meaning of tax law is hard for anyone other than an expert to decipher. My job as a reporter for the Wall Street Journal was to convert opaque tax laws into plain English. I needed a lot of help.

Thank heavens for the Joint Tax Committee. Its staff was hidden away in crowded, dreary-gray offices in the basements and remote corners of congressional buildings. I was prohibited from quoting any of them or even referring to them as congressional aides. Journalistically, they were ghosts. Yet they were an important source of clear, nonpartisan information about how tax legislation would affect the American people.

The Joint Committee staff was not then nor is it today free of controversy. Senior staffers have been regularly accused of taking sides in the Congress' always-consequential battles over taxes. When Joint Committee economists known as estimators decide how much a tax-law change would raise or lose compared to existing law – and on that subject they are the main arbiter – heated debates almost always rage between interested parties.

But the real value of the Joint Tax Committee staff is its vital-yet-unheralded role in explaining to the public – often through the media – who are the winners and who are the losers in the big tax fights on Capitol Hill.

My experience with Joint Committee staffers dates back three decades. I was one of the lead reporters covering what turned out to be the largest overhaul in the history of the U.S. income tax, the Tax Reform Act of 1986. Tax debates before and since then were mere skirmishes compared to the all-hands-on-deck, death-grip struggle that consumed Congress in 1985 and 1986. The entire tax code was opened up, scrutinized and rewritten. Every taxpayer – from the biggest company to the average family – was impacted directly. There were winners and losers on a grand scale throughout the U.S. and the world.

The covers of magazines and the front pages of newspapers were devoted to covering every angle of the story. The evening and morning broadcast news (news channels and the internet didn't exist then) carried regular updates and summaries. The only thing comparable today would be coverage of a major natural disaster or an open-seat presidential election.

But how could the purveyors of information about proposed tax changes make sense of it all? How could anyone keep up with the sheer volume and know what was significant and what wasn't? One of my secret weapons was wandering into the offices of a few, articulate Joint Tax Committee staffers and asking pointed questions.

I guess the no-quotation rule still applies, so I can't give these staffers shout-outs by name. But they were economists and lawyers who were as generous with their time as they were capacious in their knowledge. My specific task was to find the rare few of them who were able to translate taxation into

layman's language. Those kinds of folks were worth their weight in gold. One such economist was, luckily for me, as much a gossip as he was a genius, so he loved to talk to reporters. All I had to do put up with his staccato way of speaking and his condescension.

It was well worth the effort. With his help and the guidance of a few other congressional staffers who had a gift for accurate simplification, I came to understand that the right way to write about tax proposals was to focus on their implication for taxpayers, not on the change in law itself. Other reporters got tied in knots by trying to analyze mind-numbing legislative language. As often as I could provide it, my readers got the bottom line for them personally, often thanks to patient instruction from Joint Committee staffers and their extremely useful publications.

My amazing editors at the Wall Street Journal – and my more-experienced friends in the press corps like Jeff Levey now at Washington Council Ernst & Young – were also invaluable resources. A few top staffers at the House Ways and Means Committee and the Senate Finance Committee also lent a hand. Ken Kies, who then was chief tax counsel to Republicans on Ways and Means and who went on to become a chief of staff at the Joint Tax Committee, sometimes allowed me to sit in on his briefings of lawmakers. That way I got the straight facts, which was what my readers craved.

I also took advantage of what I came to think of as the Joint-Committee-once-removed. Two former Joint Tax staff chiefs, Bob Shapiro and Mark McConaghy, started what amounted to a shadow Joint Committee staff at the accounting firm now called PricewaterhouseCoopers. They filled their downtown office with former Joint Committee staff heavy weights and advised major corporations. Occasionally, they also helped me find the essence of important tax changes that were under discussion.

But for me, the Joint Committee staff was the primary explainer. In the years since, generations of reporters also came to rely on the Joint Committee staff for basic information. I contacted several current and recent tax reporters to get their views and, to varying degrees, they echoed my experience. The reporters asked for anonymity because they didn't want to appear to be buttering up a government entity that they might be asked to cover – a reasonable precaution.

"I generally think quite highly of the JCT staff, and do believe they do a good job of shedding light on the complications inherent with tax policy," one prominent, current tax reporter emailed.

"Definitely some of the smartest people on the Hill," another tax reporter emailed. "[Their] background briefings on the Camp [tax reform] draft – especially on the alternative dynamic scores – were extraordinarily helpful."

"My general sense of them is that they do a lot of the work that people think that members and their staffs do," a third reporter told me. "It's really rare to have an entity that is really trusted and respected – not always loved – by both sides."

A fourth reporter emailed: "I've found the Joint Tax Committee to be an incredibly helpful resource. The staff is both knowledgeable and willing to share that expertise. The most recent instance that stands out for me involved a story on inversions. I was on deadline and had been thrown into uncertain territory. I

didn't understand precisely how inversions worked, or the scale of potential tax losses to the U.S. government. A JCT staffer called me back almost immediately, and walked me through the tricky aspects of inversions and some of the related tactics that companies use to lower their tax bill. The story came together.”

At the same time, Joint Tax also is more aloof – even mysterious – than it was in my day. “I tend to view JCT the way the bankers in Too Big To Fail view the Federal Reserve – that office is as close to 'the temple' as you get on Capitol Hill,” one reporter wrote me. “It's sort of like the lower-profile CBO. The way they see or interpret something seemingly minor could make or break a bill.”

In addition, the hyper partisanship that has become common in Congress has infected the Joint Committee staff's ability to come across as unbiased. “Broadly speaking, I think the most pertinent thing for the public to know about JCT now is how difficult it is for them to be a nonpartisan island at a time when Capitol Hill is getting increasingly partisan,” a tax reporter writes. “I know that the scorekeepers always take heat when one side or the other doesn't like the score, but it feels life has gotten more difficult for JCT recently.”

Indeed, battles over how to score tax provisions have made the Joint Committee a political pawn. “The most interesting stories that I've written that involved JCT in some ways feel beyond their control – Republicans not liking the scores they were getting before the Camp [tax reform] draft was released, how the use of dynamic scores in the Camp draft reignited the debate over whether to make dynamic scores 'official,' etc.,” a reporter emailed. “[Chief of Staff Tom] Barthold and the JCT staff were a bit wary about all those sorts of stories, and not always all that helpful – rarely offering anything on the record, with background and off the record guidance being only at best moderately helpful. (I think I once got something to the effect of 'We try to offer the best economic analysis we can to whatever Congress asks of us.'). Barthold's different deflection strategies can be pretty amusing.”

Indeed, longtime chief of staff Barthold is a curiosity to reporters. “I've also always been intrigued by Thomas Barthold,” one reporter says by email. “He's unflappable, courteous, even dry in hearings, but he also seems to have a pretty sharp wit (his quips [once] brought down the house during a panel at [a] OECD tax conference); I'd love to get his inner running commentary when members try to rope him into giving the answer they want during more buffoonish lines of questioning.”

But the times that Joint Tax staffers speak publicly is relatively unusual compared to their background assistance. And that's where they provide a very real, though secret public service. “JCT staffers can't be quoted – conversations are always on background,” a tax reporter emailed. “But by speaking on background, the JCT staffers had at least provided an avenue for public understanding that otherwise might not have existed. Without the JCT staff expertise, I would have been beholden to corporations to describe their own tax strategies. I don't think the results would have been as helpful for the public.”

Jeffrey H. Birnbaum is co-author with Alan S. Murray of *Showdown at Gucci Gulch*, an award-winning history of the Tax Reform Act of 1986. He is currently president of BGR Public Relations in Washington, D.C., and a member of the board of the National Press Foundation.