SOME BASIC MARXIST CONCEPTS TO HELP UNDERSTAND INCOME TAX

Mr John Passant
PhD Candidate
School of Politics and International Relations
Australian National University
Formerly, Assistant Commissioner of Taxation
Australian Tax Office

Abstract

The paper introduces readers to some basic Marxist concepts to give us the building blocks for an alternative understanding of tax and perhaps even to inspire some to use these concepts and ideas in their future research. It argues that the tax system reflects the phenomena of wealth and income and that there is a deeper reality obscured and ignored by the income tax system as an outcrop of a capitalist system which does the same. This deeper reality is that capital exploits workers and that profit, rent, interest and the like are the money form of the unpaid labour of workers, what Marx called surplus value. Tax is a deduction from that surplus value.

I INTRODUCTION

My aim in this paper is to introduce readers with an interest in tax to some basic Marxist concepts. I argue that the missing element in any discussion of income tax, specifically in Australia but true more generally of other countries and other tax systems, is the idea and the reality that it is workers who produce the capitalist wealth of society (i.e. value). The aim of the paper is, by using economic ideas drawn from Marx, '… to reveal the relationship between the way things are and the way they appear to be.'[1] By operating at the level of appearance the income tax system hides the way things are. It helps disguise the exploitative nature of capitalism. By this I mean that taxation is an extraction from surplus value, the wealth workers create in the process of production over and above the wage they are paid and which capital expropriates.[2]

The income tax system reflects the idea and the surface reality that businesses earn their income in the form of profits or rents or dividends or interest rather than extracting that surplus value from the value that workers create in the process of production which is then realised or monetised in exchange. Income tax also applies to the wages workers receive. Wages are the surface expression, the price, of the value of workers' labour power or ability to work, not a payment for the work they do or reward for the value they create.

To help readers understand the discussion I will first introduce in Part II some basic Marxist concepts. Part III deals with the Marxist distinction between outward appearance and essence,[3] between appearance and reality.[4]

Part IV adopts these concepts in a basic way as an example of how Marxist concepts can help us understand the deeper reality of tax. It looks at the way we tax income and profits in general terms and then what ordinary income is and other matters that are at the heart of the tax system and what tax teachers teach. I argue that in both cases the appearance of things, not their essence, is what is taxed and what tax teachers— an important audience for this paper— teach. The income tax system and our teaching of it accept and reinforce the appearance of

[1] Ben Fine and Alfredo Saad-Filho, *Marx's 'Capital'*, (2004, London, Pluto Press) 4.
[2] Chris Harman, *Zombie Capitalism: Global Crisis and the Relevance of Marx* (London, Bookmarks 2009) 114.
[3] Karl Marx, *Capital Volume III* (Progress Publisher, Moscow, 1974) 817.
[4] David Goldway, 'Appearance and Reality in Marx's Capital' (Fall, 1967) 31 (4) *Science & Society* 428.

income earned by taxpayers and hide the reality of wealth produced by workers and expropriated by the owners of capital.

I conclude that the income tax system in its operation reflects and reinforces the appearances of income earned that arise in the market in capitalism but in doing that disguises the essence of the exploitation of workers in production that is the very essence of the capitalist system.

Let's then look at some basic Marxist ideas and concepts that help us understand the rest of the discussion.

II MARX – SOME BASIC IDEAS AND CONCEPTS

Some of the ideas of Marx that underpin this overall analysis and which I discuss briefly here include the concept of the ruling class as a band of hostile brothers, the relative autonomy of the State, surplus value and how it is created, the labour theory of value, the tendency towards average profit rates, prices of production and the conversion of surplus value into profits.[5]

A A Band of Hostile Brothers

Capitalists can be understood as a band of hostile brothers[6] united in exploiting workers and aiming to increase the surplus value extracted from workers. In that sense they are a band. However they also battle each other for a bigger share of

[5] A good introduction to the basic economic ideas can be found in N.I. Bukharin and E. Preobrazhensky, 'The Capitalistic Social Order' in N.I. Bukharin and E. Preobrazhensky, *The ABC of Communism* (Penguin Books, 1969) <http://www.marxists.org/archive/bukharin/works/1920/abc/01.htm>.

[6] I'd use siblings but the phrase is now so entrenched in Marxist and leftwing writing that it is seemingly untouchable. Interestingly, although Marx talked about hostile brothers, he never called them a band. Later writers ascribed the phrase to him and it has become common usage. I use the phrase to describe capitalists who own the commanding heights of the economy and their state.

the surplus value workers create.[7] In that sense they are hostile. The band includes productive capital (that section which produces commodities for the market and in doing so extracts surplus value from its workers), commercial or retail capital, finance capital, landlords and the state. Capital or sections of it are sometimes united against the state because they see the state as a parasite on 'their' profit, interest, rent and so on.

B The State and Revenue

In a famous passage Marx said: 'Capital is dead labour, that, vampire-like, only lives by sucking living labour, and lives the more, the more labour it sucks.'[8] The state is a parasite on the vampires, recognising that the relationship between parasite and host is symbiotic. As Rupert Read puts it the relationship is one of '…"symbiotic parasitism", an "ecological system" involving mutual benefit…'[9]

Marx at one stage, in discussing pre-capitalist relationships in Volume III of Capital, calls usurer's capital, which he describes as the antiquated form of interest-bearing capital, as a parasite on the capitalist mode of production. This is because, as he says:

> Usury centralizes money wealth where the means of production are dispersed. It does not alter the mode of production, but attaches itself firmly to it like a parasite and makes it wretched. It sucks out its blood, enervates it and compels reproduction to proceed under ever more

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[7] Joseph Choonara, *Unravelling Capitalism: A Guide to Marxist Political Economy* (Bookmarks London 2009) 21. This battle for a bigger share of surplus value is true for capitalists. The state on the other hand may in fact reduce its share of surplus value by reducing taxes and/or spending to increase the amount of surplus value going to the other hostile brothers to increase their profits and to preserve the accumulation process.
[8] Karl Marx, *Capital Volume I* (Progress Publishers, Moscow, 1977) 224.
[9] Rupert Read, 'Marx and Wittgenstein on Vampires and Parasites: a Critique of Capital and Metaphysics' in Gavin Kitching and Nigel Pleasants (eds) *Marx and Wittgenstein: Knowledge, Morality and Politics* (Routledge, London, 2004) 254, 267.

> pitiable conditions. Hence the popular hatred against usurers, which was most pronounced in the ancient world where ownership of means of production by the producer himself was at the same time the basis for political status, the independence of the citizen.[10]

Marx's description of usury as parasitic on the mode of production because it 'impoverishes the mode of production'[11] also describes the state in its revenue raising capacity since tax is a deduction from profit[12] and hence reduces the amount of money directly available to capital for future wages, reinvestment and the like.[13] However the state also enriches capital and reinforces its rule. Thus the capitalist state has the monopoly on armed force and dominates its ruling institutions such as parliament and the judiciary. It uses that monopoly to protect capital in various ways, from controlling and if necessary repressing any protests and uprisings by workers and others all the way through to manufacturing consent[14] through its ideological and institutional tools. The state also uses its monopoly tax power (bifurcated in the case of Australia between the Commonwealth and the States and Territories) to levy a variety of taxes. In Australia income tax is in practice a tax monopoly that the Commonwealth exercises.[15]

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[10] Karl Marx, above n 3, 596.

[11] Ibid.

[12] For example Marx says that '…the fall of the rate of profit can further be delayed by the omission of existing deductions from profit, e.g. by a lowering of taxes, reduction of ground rent etc...for these are themselves portions of the profit under another name, and are appropriated by persons other than the capitalists themselves.' Karl Marx, *The Grundrisse* (Penguin Books, London, 1977) 751. However note that Marx is talking about profit, not surplus value, i.e. the specific appearance not the essence.

[13] This role certainly helps to explain the hostility of some sections of capital and their thinkers to the State.

[14] Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media* (New York: Pantheon Books, 1988).

[15] See for example *South Australia v Commonwealth* (1942) 65 CLR 373, also known as 'the First Uniform Tax case'.

Whether enrichment of capital occurs as a result of the expenditure of tax revenue depends on the nature of the state spending and the level of class struggle. Some at least of that state deduction from surplus value becomes expenditure productive of current and future surplus value, either directly through for example subsidies to particular capital or infrastructure expenditure on its behalf, or indirectly, and at times performing a dual function with expenditure on and for capital, as part of the social wage. State expenditure on public health, public education and public transport performs this dual function of social wage and state expenditure assisting the production of surplus value. [16]

Using its monopoly of force and institutions and, depending upon which country we are talking about, relying on the consent of its population through the democratic process, the capitalist state imposes taxes, which while they appear on the surface to fall on the earnings of taxpayers are in fact part of the divvying up among the band of hostile brothers of the surplus value created by workers. The state is thus another of the groups fighting for a share of surplus value. It sits at the table with productive capital, commodity capital, finance capital and landlords. The state, far from being independent or fully autonomous, is in fact dependent on the accumulation process outlined above and the creation of surplus value arising from the exploitation of labour by capital.[17] This fact limits

[16] Some left wing writers, such as Paul Baran and Paul Sweezy in *Monopoly Capital: An Essay on the American Economic and Social Order* (Monthly Review Press, 1966, New York) go so far as to argue that the State adds to 'the surplus' through its activities. However, as Paul Mattick points out, that is because Baran and Sweezy misunderstand surplus value and, whatever the nature of their analysis is, it isn't Marxist. Paul Mattick, 'Monopoly Capital' in *Anti-Bolshevik Communism* (Merlin Press, 1978) <http://www.marxists.org/archive/mattick-paul/1966/monopoly-capital.htm>. Having said that, the merger of state and capital in the Stalinist regimes saw and sees the state as the collective embodiment of capital.

[17] Paul Cockshott and Dave Zachariah, 'Credit Crunch: Origins and Orientation' (2010) 74(3) *Science & Society* 343, 358.

its scope for action, or as Harman puts it, '…the different sections of capital cannot escape their mutual interdependence more than temporarily.'[18]

One thing appears clear, that in terms of symbiotic parasitism the state, like interest bearing capital, is dependent on the production of surplus value. This means the state is structurally dependent[19] on the production of surplus value and hence on productive capital and capital more generally. These are structural limitations, not idealistic ones. The limitations are not straitjackets however and the state can manoeuvre within the overall limitation, and in some cases, such as radical populism, left wing social democracy and Nazism, can seriously attack sections of the capitalist class but cannot overthrow the capital accumulation process itself.[20] The state can have a fair degree of autonomy.[21] But it cannot challenge capitalism itself since it is part of it and dependent on the creation of surplus value for its revenue and hence existence. If it devours the heart of the beast in which it lives, it too will die.

Let's look at the concept of surplus value in a little more detail. What is surplus value? How do workers create it?

C Surplus Value

Surplus value comes from workers' labour, or to be more specific the labour of productive workers, those workers who produce commodities for the market.[22] Surplus value is the difference between what workers are paid and the value they

[18] Chris Harman, above n 2, 114.
[19] Adam Przeworski and Michael Wallerstein, 'Structural Dependence of the State on Capital' (Mar., 1988) 82(1) *The American Political Science Review* 11; Chris Harman, above n 2, 112-114.
[20] Chris Harman, above n 2, 111.
[21] Ibid.
[22] Karl Marx, above n 8, 149, 201; Alex Callinicos, *The Revolutionary Ideas of Karl Marx* (Bookmarks, London, 1996) 219; Chris Harman, above n 2, 31.

create.[23] For example say workers toil for 8 hours per day but in working for 5 hours they are paid enough to cover their living and other essential costs, and to provide for the next generation of workers. The other 3 hours – the unpaid labour or surplus value[24] - goes to the owner of capital. Here is how Marx puts it in *The Grundrisse*:

> The worker needs to work only e.g. half a working day in order to live a whole one; and hence to be able to begin the same process again the next day. Only half a day's work is objectified in his labouring capacity—to the extent that it exists in him as someone alive, or as a living instrument of labour. The worker's entire living day (day of life) is the static result, the objectification of half a day's work. By appropriating the entire day's work and then consuming it in the production process with the materials of which his capital consists, but by giving in exchange only the labour objectified in the worker—i.e. half a day's work—the capitalist creates the surplus value of his capital; in this case, half a day of objectified labour.[25]

It is in production that the creation of goods and services for the market occurs. This is the site where surplus value is created.[26] This surplus value finds expression, is realised, in the market as revenues which are then distributed as profit to those capitalists who own the means of production,[27] as interest to

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[23] Chris Harman, above n 2, 32. See also Ernest Mandel, 'Marx's Theory of Surplus Value' *International Socialist Group*, <http://www.isg-fi.org.uk/spip.php?article138>.

[24] Karl Marx, above n 8, 500. Marx there says "All surplus value ….is in substance the materialisation of unpaid labour. ' See also Fred Moseley 'The rate of surplus value in the post-war US economy; a critique of Weisskopf's estimates' (1985) 9 (1) *Cambridge Journal of Economics* 57, 58.

[25] Karl Marx, *The Grundrisse* (Penguin 1977) 333-4.

[26] Chris Harman, above n 2, 122.

[27] These are the raw materials, machinery, the buildings and surroundings or environment in which production occurs such as, factories, mines, offices and the like. The circumstances are more complicated than that because productive capital often sells its goods to retailers who pay

finance capital, as commercial profits to the retailers, as rent to landlords and as taxes to the state.[28] It is in the market that the distribution and redistribution of surplus value into profit (industrial, commercial etc), interest, rent and then finally tax occurs.[29]

For Marx surplus value was a general category, over and above its specific surface forms such as profits, interest, rent and tax. He said: 'All economists share the error of examining surplus-value not as such, in its pure form, but in the particular forms of profit and rent.'[30] The income tax system too shares this error. It taxes particular income such as profit, interest etc and further imagines that it is capital creating this profit, interest and the like, not labour.

This particularisation of surplus value is what tax systems and business taxpayers do too, since the surplus value becomes a specific form of money in hand during the process of the circulation of capital from money to commodities to more money, or M-C- M' as Marx describes it. M represents money, C is commodities in the form of labour power and means of production like raw materials, land, buildings and machinery and M' is the initial money plus extra money, that extra money being profit. The existence of surplus value in particular forms becomes real when exchange occurs but exchange does not necessarily or indeed often correspond to the value of the commodity. Rather it oscillates around it, often because of supply and demand or in some cases because of monopoly or similar situations.

them out of past surplus value or in anticipation of future commercial profits on the goods purchased, often tided over by borrowing from finance capital.

[28] Chris Harman, above n 2, 114.

[29] Fred Moseley, 'Hostile Brothers: Marx's Theory of the Distribution of Surplus-Value in Volume 3 of Capital' in G.Reuten (ed), *The Culmination of Capital: Essays on Volume 3 of Capital*, (Palgrave 2002) 65, 65.

[30] Karl Marx, *Theories of Surplus Value, Volume 1*, (1963, Moscow: Progress Publishers) 40.

Indeed what the tax system does is, like the rest of capitalism, block out or ignore C in the M-C- M' process, especially the purchase of labour power and the magical characteristics it contains of adding Δ M, or what becomes profit, interest, rent and tax in the realm of circulation, to create M'. What looks to capital as M- M' not unsurprisingly looks to the tax functionaries of capital as exactly the same process.

Workers too particularise the form of their payment. Both the capitalist and the worker believe that she is being paid for the labour expended over the full working day, not part of it. In fact the reality is very different. The capitalist exchanges money for the labour power of the worker and the worker exchanges their capacity to work for money to survive.

What is missing from the analysis of many economists and lawyers, of politicians and business people, and almost all workers, is that it is labour which creates value. To understand that, we need to look not just at the concept of surplus value but also at the labour theory of value.

D The Labour Theory of Value

For Marx (and indeed for Ricardo and sometimes Adam Smith) it is labour which produces wealth or surplus value. This idea of surplus value flows from the labour theory of value. This is the idea that value is determined by the labour embodied in goods and services sold on the market or as Callinicos puts it '…commodities – products sold in the market place – exchange in proportion to the socially necessary labour time required for their production.'[31]

The idea itself is fairly simple, if controversial. Kuhn and O'Lincoln put it this way: '… human labour is the only element in the production process which

[31] Alex Callinicos, *The Revolutionary Ideas Of Karl Marx* (Bookmarks, London, 1996) 122.

creates new value (as opposed to simply passing on the labour it embodies to the final product).'[32] What is it that commodities have in common, what characteristic is it that is in all goods and services which allows them to be exchanged for money, the universal equivalent,[33] and in comparison to each other? For Marx the answer was labour.[34] He says: 'If then we leave out of consideration the use value of commodities, they have only one common property left, that of being products of labour.'[35] Marx argued it is labour which creates value, not machines, raw materials or other capital.[36] Someone has to dig the coal out of the ground. Plant and machinery and so on – constant capital[37] - transfer the labour embodied in them to the new goods,[38] the wear and tear component of depreciation being an estimate of that transfer.[39]

If it is human labour which creates new value that does not mean the longer it takes to produce something the more value it contains that can be realised. Competition between capitals makes sure it is only the socially necessary labour time embodied in commodities which will exchange in the market place.[40] Why socially necessary labour time? In a competitive world the labour time has to be the socially necessary labour time, otherwise the value of a good made by someone not as skilled in the task as others would be higher, but of course wouldn't sell compared to the cheaper and perhaps better made products of competitors.[41] Competition forces each capitalist to operate at this socially

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32 Rick Kuhn and Tom O'Lincoln, 'Profitability and Crisis' (1989) 25 *Journal of Australian Political Economy* 44, 46.
33 Karl Marx above n 8, 90.
34 Ibid 46.
35 Ibid.
36 Harman, above n 2, 37.
37 Ibid 38.
38 Ibid.
39 Andrew Kliman, *The failure of capitalist production: underlying causes of the great recession* (Pluto Press, 2011) 139.
40 Karl Marx, above n 8, 46-47.
41 Andrew Kliman, above n 39, 127.

necessary labour level and look for ways to reduce that and improve their competitive position vis-à-vis other capitalists.

The law of value is the regulating force of capitalist society. This law of value is not just the idea that 'the exchange of commodities [is] in proportion to the socially necessary labour time involved in their production,'[42] or more prosaically that labor produces value,[43] or more accurately, that it is 'the whole panorama of forces exposed in the metamorphosis of value, in which the equation of labor with value is the underlying assumption.'[44] The creation and then transformation of value into profits, rent, interest and taxes are part of the dynamic of this law.

For the law to operate labour, or more correctly labour power as a commodity that is bought and sold, must have its own value. What is that value?

E The Value of Labour Power

A key part of Marx's analysis, flowing from his version of the labour theory of value, is his view that labour power is a commodity with both a use value (to create surplus value or undertake other activities for the boss or the State aiding that end) and an exchange value, reflected in the market by its price or wage. When the employer hires an employee they do not hire their labour but their 'capacity for labour'.[45] The distinction is important because it enabled Marx to solve the problem of where surplus value— hence profit and the other sub-categories—comes from. Continuing this theme, Marx says that 'wages are not what they appear to be, namely, the value, or price, of labour, but only a masked

[42] Alex Callinicos above n 31, 138-139.
[43] Bertell Ollman, *Alienation: Marx's Conception of Man in Capitalist Society* (Cambridge University Press, Cambridge, 1976) 194.
[44] Ibid.
[45] Karl Marx, above n 8, 164

form for the value, or price, of labour power'[46] and calls the system of wage labour a system of slavery[47] because a worker must work 'for a certain time gratis for the capitalist (and hence also for the latter's co-consumers of surplus value)...'[48] Indeed, for Marx this means that '…the whole capitalist system of production turns on the increase of this gratis labour by extending the working day or by developing the productivity, increasing the intensity of labour power, etc...'[49]

Like all commodities labour power – the ability to work - has its own value. Capital buys the labour power of the worker. This is her ability to work, at the appropriate value or thereabouts, with the thereabouts depending on supply and demand and the intensity and level of class struggle. The exchange value of labour power – wages are its price reflection – is the socially necessary labour time required to regenerate the worker for the next day and into the future[50] and includes immediate costs such as food, clothing, heating, transport and housing but also more long term costs like the support of children - the next generation of workers - education, skills, health, and other less immediate requirements for capital. It also includes a historical and moral element. The use value of labour power is the actual labour performed, and in relation to productive labour the surplus value this creates for productive capital. Let me quote a long passage from Marx to make the point:

> The value of labour-power is determined, as in the case of every other commodity, by the labour-time necessary for the production, and consequently also the reproduction, of this special article. So far as it has

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[46] Karl Marx, *Critique of the Gotha Programme* (Foreign Languages Press, Peking, 1972) 23.
[47] Ibid.
[48] Ibid.
[49] Ibid.
[50] Karl Marx, above n 8, 167-170.

value, it represents no more than a definite quantity of the average labour of society incorporated in it. Labour-power exists only as a capacity, or power of the living individual. Its production consequently pre-supposes his existence. Given the individual, the production of labour-power consists in his reproduction of himself or his maintenance. For his maintenance he requires a given quantity of the means of subsistence. Therefore the labour-time requisite for the production of labour-power reduces itself to that necessary for the production of those means of subsistence; in other words, the value of labour-power is the value of the means of subsistence necessary for the maintenance of the labourer. Labour-power, however, becomes a reality only by its exercise; it sets itself in action only by working. But thereby a definite quantity of human muscle, nerve. brain, &c., is wasted, and these require to be restored. This increased expenditure demands a larger income. If the owner of labour-power works to-day, to-morrow he must again be able to repeat the same process in the same conditions as regards health and strength. His means of subsistence must therefore be sufficient to maintain him in his normal state as a labouring individual. His natural wants, such as food, clothing, fuel, and housing, vary according to the climatic and other physical conditions of his country. On the other hand, the number and extent of his so-called necessary wants, as also the modes of satisfying them, are themselves the product of historical development, and depend therefore to a great extent on the degree of civilisation of a country, more particularly on the conditions under which, and consequently on the habits and degree of comfort in which, the class of free labourers has been formed. In contradistinction therefore to the case of other commodities, there enters into the determination of the value of labour-power a historical and moral element. Nevertheless, in a given country, at

> a given period, the average quantity of the means of subsistence necessary for the labourer is practically known. [Footnotes omitted.] [51]

The price of labour power, the wage, like the price of all commodities, can and does fluctuate around its value. It does so not only because of supply and demand but also due to class struggle. Unlike other commodities the possessor of labour power can think. Thus workers through industrial action may be able to win wages above the value of their labour power. Similarly capitalists and the state can try to and sometimes do drive wages below their value.

As we shall see, wages come out of past surplus value. It is in the circulation of capital and its varying forms that surplus value is realised and becomes apparent, not in the form of surplus value but in its surface appearance as profit, rent, interest, dividends, wages and taxes.

F Capitalism as a process

Surplus value is created in the process of production. The market brings that value to life. During the course of its life capital goes through different forms. Money buys constant capital (raw materials, machines, buildings etc) and variable capital (labour power). These are combined to produce commodities which are sold for more money. That new money is used to buy constant and variable capital to make more commodities for more money for more constant and variable capital for more commodities for even more money. As Marx put it, 'M-C-M'' is therefore in reality the general formula of capital as it appears prima facie within the sphere of circulation.'[52] What then happens to this M'? It is reinvested to make more money, i.e. M''. The whole process starts again with the aim being to make more money to make more money. The dynamic of the

[51] Ibid, 167-168.
[52] Ibid, 153.

system is 'accumulation for the sake of accumulation, production for production's sake.'[53]

So while the site of production is of utmost importance, so too is the circulation process in which the surplus value inhered in commodities becomes money in the market place through competition. Capitalism is a process of circulation. As Kincaid puts it in discussing his own approach:

> The central line of argument is organised, as it is in Marx, round the circuit of productive capital. Money capital is converted into wages, machinery and other means of production. In the phase of production, value is created and surplus-value extracted from unpaid hours of labour-time. Capital is reconverted back into the money-form, as the value and surplus-value embodied in the commodities are realised by sale of the commodities in competitive markets.[54]

Marx captures this in discussing the various stages in the circuit of money capital, where as well as M being Money and C being commodities, P is capital in the process of production.[55] He says:

> The circular movement of capital takes place in three stages, which, according to the presentation in Volume I, form the following series:
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> *First stage*: The capitalist appears as a buyer on the commodity- and the labour-market; his money is transformed into commodities, or it goes through the circulation act M — C.

[53] Ibid, 558.
[54] Jim Kincaid, 'Production vs. Realisation: A Critique of Fine and Saad-Filho on Value Theory' (2007) 15 *Historical Materialism* 137, 139.
[55] Christopher J Arthur, The New Dialectic and Marx's Capital (Brill, Leiden, 2004) 22-23.

> *Second Stage*: Productive consumption of the purchased commodities by the capitalist. He acts as a capitalist producer of commodities; his capital passes through the process of production. The result is a commodity of more value than that of the elements entering into its production.
>
> *Third Stage*: The capitalist returns to the market as a seller; his commodities are turned into money; or they pass through the circulation act C — M.
>
> Hence the formula for the circuit of money-capital is: M — C ... P ... C' — M', the dots indicating that the process of circulation is interrupted, and C' and M' designating C and M increased by surplus-value.[56] [Footnote omitted.]

However, it is not just a single rolling process; it is multidimensional. The circulation process is even more complicated because 'capital is best conceived as "*capital circulant*" in the sense of "value-in-process".'[57] Marx puts it this way:

> Capital is now posited, however, as not merely sustaining itself formally, but as *realizing itself as value,* as value relating to itself as value in every one of the moments of its metamorphosis, in which it appears at one time as money, at another time as commodity, then again as exchange value, then again as use value. The passage from one moment to the other appears as a particular process, but each of these processes is the transition to the other. Capital is thus posited as value-in-process, which is capital in every moment. It is thus posited as *circulating capital; in* every moment capital, and circulating from one form into the next. The point of return is at the

[56] Karl Marx, *Capital Volume II* (Progress Publishers Moscow 1977) 25.
[57] Samuel Hollander, *The Economics of Karl Marx: Analysis and Application* (Cambridge University Press, 2008) 271.

> same time the point of departure and vice versa -- namely the *capitalist*. All capital is originally circulating capital, product of circulation, as well as producing circulation, tracing in this way its own course. From the present standpoint, money circulation now appears as itself merely a moment of the circulation of capital, and its independence is posited as a mere *semblance*. It appears as determined on all sides by the circulation of capital, to which we shall return. In so far as it forms an independent motion alongside that of capital, this independence is posited only by the *continuity* of the circulation of capital, so that this one moment may be held constant and regarded for itself.[58]

Marx also warns that M — C ... P ... C' — M' is illusory.[59] It is real, but illusory. This is because it is viewed statically, imagined as occurring only once. It is also illusory because it ignores the role of labour in the production process, or as Marx argues, it 'assumes therefore that the process of labour and self-expansion, the process of production, is a function of capital.'[60] The reality is that it is the use of money to buy labour power that enables that power to be put to work to produce surplus value, which is then realised in the process of exchange. It is also illusory because it assumes a linear process, whereas Marx goes on to describe it thus:

$$M \quad C \ldots P \ldots C' — M'.\ M — C \ldots P \ldots C' \quad M'.\ M — C \ldots P \ldots \text{etc.}$$

> Beginning with the second repetition of the circuit, the circuit P ... C' — M'. M — C ... P appears before the second circuit of M is completed, and

[58] Karl Marx, above n 25, 536-537.
[59] Karl Marx, above n 56, 63.
[60] Ibid.

> all subsequent circuits may thus be considered under the form of P ... C' — M — C ... P, so that M — C, being the first phase of the first circuit, is merely the passing preparation for the constantly repeated circuit of the productive capital. And this indeed is so in the case of industrial capital invested for the first time in the form of money-capital.
>
> On the other hand before the second circuit of P is completed, the first circuit, that of commodity-capital, C' — M'.M — C ... P ... C' (abridged C' ... C') has already been made. Thus the first form already contains the other two, and the money-form thus disappears, so far as it is not merely an expression of value but an expression of value in the equivalent form, in money. [61]

P is where labour power is purchased and put to work to produce surplus value. Yet until that surplus value is then given form, is turned into money in the competitive market, it is a hidden reality. The unity of production and realisation[62] means that in the complex interactions that Marx identifies surplus value is created in production and then realised in circulation, on the market. For capitalists it takes form as profit, interest, rent, dividends and the like as part of the distribution of surplus value created in the production process but realised in the competitive market.[63] It takes that form in the hands of the particular

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[61] Karl Marx, Ibid.

[62] Karl Marx, above n 25, 401-402.

[63] Marx says in *The Grundrisse*: 'We have now seen how, in the *realization process,* capital has (1) maintained its value by means of exchange itself (exchange that is, with living labour); (2) increased, created a surplus value. There now appears, as the result of this unity of the process of production and the process of realization, the product of the process, i.e. capital itself, emerging as product from the process whose presupposition it was -- as a product which is a value, or, *value* itself appears as the product of the process, and specifically a *higher value,* because it contains more objectified labour than the value which formed the point of departure. This value as such is *money*. However, this is the case only *in itself;* it is not posited as such; that which is *posited* at the outset, which is on hand, is a commodity with a certain (ideal) price, i.e. which exists only ideally [*ideell*] as a certain sum of money, and which first has to *realize* itself [*sich*

capitalist and their role in the circulation of capital, as productive capital, retail capital, finance capital, landlords and parasite like on the exploiters, the state. Thus when taxes are imposed we can add the state to the band of hostile brothers. But the state is only able to levy income tax once the profit or interest or rent has crystallised in the hands of the particular capitalist. In other words the state appears to capital to be a parasite on the process of parasitism that capital itself exists upon.

Let's look briefly at how surplus value is converted into profit and its other specific forms.

G The Prices of Production

In discussing the conversion of surplus value into money, into profit for example, Marx talked about the prices of production – costs plus the average profit rate.[64] Goods and services are sold at their prices of production, understood as a dynamic process. Average profit is not fixed but an ongoing process always striving towards but never reaching the equalisation of profit rates, i.e. a tendency towards an average profit rate.[65] It is competition which drives this tendency to the equalisation of profit rates.[66] The ongoing move and recalibration towards average profit rates works well in a fully competitive society where there are for example no barriers to entry. In that case, where an industry is making above average profits, investment will flow in to establish competitors, driving down the profit rate in that industry. Multiply that across an economy and you have this endless journey towards the equalisation of profit rates around an ever changing average profit rate. As Moseley puts it:

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realisieren] as such in the exchange process, hence has to re-enter the process of simple circulation in order to be posited as *money.' See Karl Marx, above n 25, 401-02.*

[64] Karl Marx, above n 3,157. The costs are constant and variable capital discussed above.

[65] Ibid.

[66] Ibid.

> Some industries have a higher "value" rate of profit (the rate of profit that would occur if individual prices were equal to their values) than other industries, because the former industries have a higher proportion of labor for a given amount of capital (i.e. a lower composition of capital). If a given amount of capital is redistributed from industries with relatively more labor to industries with relative less labor, then, because there is now less labor in the aggregate, there is also less surplus-value produced in the aggregate, and hence a lower general rate of profit.[67]

In fully competitive economies the distribution of surplus value among the hostile brothers is proportional to the total value invested, despite the fact that only variable capital produces surplus value.[68] But what happens when there are for example barriers to entry or monopoly or oligopoly situations? In effect these monopolists and oligopolists 'purloin' some of the surplus value that would have gone to the other hostile brothers. In terms of the value/prices of production analysis it means that some prices of production can be above and some below their value and this differential produces more or less distribution of surplus value based on the capital invested. The question then becomes does the process of the equalisation of profit rates break down this 'aberration'. Where the barriers themselves, for example land ownership, are integral to capitalism then the tax system might become some imperfect substitute for the impact of competition. That appears to be the case for resource rent taxes.[69]

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[67] Fred Moseley, 'Hostile Brothers: Marx's Theory of the Distribution of Surplus-Value in Volume 3 of Capital' in G.Reuten (ed), *The Culmination of Capital: Essays on Volume 3 of Capital*, (Palgrave 2002) <http://www.mtholyoke.edu/~fmoseley/working%20papers/VOL3.pdf>.

[68] Karl Marx, above n 3, 157; Alex Callinicos, *The Revolutionary Ideas of Karl Marx* (Bookmarks, 1996) 142.

[69] John Passant, 'A basic guide to taxing economic rent in Australia' (2012) 11(2) *Canberra Law Review* 100, 102; John Passant, 'Neoliberalism in Australia and the Henry Tax Review' (2013) 8(1) *Journal of the Australasian Tax Teachers Association* 117, 128; John Passant, 'The minerals resource

Company and other business entity income taxes are not a tax on surplus value. Company tax is a tax on profits, i.e. the company's assessable income less allowable deductions. Leaving aside nuances not necessary for our discussion that is essentially what the prices of production and their realisation on the market produce. Cost plus an average profit rate determine the prices of production and if the commodities then sell on the market they are the assessable income component of what becomes taxed as company or other business income. In other words what is taxed is the reality of surplus value realised in the market place, hidden, disguised but one of the driving forces behind the whole system. Cuts to corporate taxes during times of economic decline, and as part of the ongoing globalisation of capitalism and the tax competition that produces,[70] therefore become a major consideration of the ruling class and its politicians because they allow '… the capitalists to retain a greater proportion of surplus...'[71] Economic crises or long term declines in profit rates might also see politicians make further cuts to public spending[72] or seek new sources of taxation such as workers' consumption spending which they mistakenly view as falling on workers rather than being at least possibly further extractions from surplus value, depending on the level of class struggle.[73]

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rent tax: the Australian Labor Party and the continuity of change' (2014) 27 (1) *Accounting Research Journal* 19, 31-32.

70 John O'Connor, 'Marxism and the Three Movements of Neo-liberalism' (2010) 36 (5) *Critical Sociology* 691.

71 Nick Dempsey, 'Marxism and the Economic Crisis' *Socialist Action* 27 April 2011 <http://www.socialistaction.net/Economics/Marxism-and-the-Economic-Crisis.html>. See also Stephen A Resnick, *Knowledge and Class: A Marxian Critique of Political Economy* (University of Chicago Press, Chicago, 1987) 323 footnote 35. Resnick says in relation to the shift from public to private sites for the provision of public goods that 'The decreased role of the state in society was to be coupled with tax cuts, especially on corporate profits, (a reduction of the share of surplus value directed to the state).'

72 Nick Dempsey, above n 71.

73 Thus the Howard Government introduced a Goods and Services Tax in 2000 and business has been pushing to increase its rate from its current 10% and broaden the base by abolishing exemptions for fresh food, health and education spending. Although the GST was not part of its

The response of workers might be to strike to increase their wages to retain their real wage, e.g. the price of labour at its pre-GST level before the imposition of the tax, and this would mean a reduction in surplus value going to the boss. As Harman puts it:

> State revenues are raised by taxing individuals. But individuals will attempt to recoup their loss of purchasing power by struggles at the point of production – the capitalists by attempting to enforce a higher rate of exploitation, the workers by attempting to get wage increases.[74]

Class struggle or its absence is one important consideration in the amount of surplus value going to capital.

One key theoretical point in any discussion of the political economy of taxation has to be the difference between appearance and essence. Let's have a look at what Marxists mean by this.

III FROM APPEARANCE TO ESSENCE

Marx famously noted that 'all science would be superfluous if the outward appearance and the essence of things directly coincided.'[75] This is as true of social sciences (including law) as of the hard sciences. Thus in the tax field, while

remit, the Henry Tax Review notes that a key direction of taxation reform should be '…private consumption, through broad, simple taxes.' Ken Henry et al, Ken Henry et al, *Australia's Future Tax System Report to the Treasurer* (AGPS, 2010) Part Two Detailed Analysis Volume One, xvii. The recent Tax Reform Discussion Paper Re:think asked: To what extent are the tax settings (that is, the rate, base and administration) for the GST appropriate? What changes, if any, could be made to these settings to make a better tax system to deliver taxes that are lower, simpler, fairer? Re:think, (Canberra, 2015) 141. Given the emphasis in the paper (see page 132 for example) on the fact that Australia's GST rate is very low by international standards and its base taxes only 47% of consumption, compared to up to 96% in New Zealand, the answer seem pretty obvious, at least to the authors of the report, and to the Abbott Government. Politics does not yet allow them to spell this out clearly let alone argue for it openly.

[74] Chris Harman, above n 2, 113-114.

[75] Karl Marx, above n 3, 817.

capitalism appears to be about commodity exchange and the money that flows from that, it is in the process of production - the exploitation of wage labour and from that the creation of surplus value for reinvestment - that the basis for revenue in the exchange process arises. We need to go beyond the superficial to the essence, and that is as true of income tax as any other expression of capitalist society. Lucaks puts it this way:

> If the facts are to be understood, this distinction between their real existence and their inner core must be grasped clearly and precisely. This distinction is the first premise of a truly scientific study which, in Marx's words, "would be superfluous if the outward appearance of things coincided with their essence." Thus we must detach the phenomena from the form in which they are immediately given and discover the intervening links which connect them to their core, their essence...This twofold character, the simultaneous recognition and transcendence of immediate appearances, is precisely the dialectical nexus.[76]

This paper is about the first steps on the journey from appearance to reality to understand income tax in Australia.

Taxing profits, wages, dividends, rent and interest in the hands of those companies who 'earn' it is part of the reification and fetishism that hides the reality of exploitation of labour by capital. The obfuscation is not some deliberate ploy. It arises from the very nature of capitalism's reality – the hidden exploitation of workers. Exchange and the realisation of surplus value in the market disguise the deeper truth that it is in the process of production that workers create surplus value. Our income tax system and tax teaching hide this deeper reality.

[76] Georg Lukács, *History and Class Consciousness*, (Merlin Press, London 1971) 86-87.

In short, the income tax system is based on what Marx describes as the (apparent) trinity formula of capital-profit, labour-wages and land-rent.[77] The income tax system is an outgrowth of an economic system that fetishises commodities and sees relationships between people as relationships between things. It not only hides the exploitation of workers, it mislocates the creation of profit, interest, rent and dividends – specific examples of the general category of surplus value[78] - in the hands of capital rather than labour. It views workers as being rewarded for their labour rather than the reality of the reward being for their ability to labour and taxes them accordingly.

What the tax system deals with is the phenomena arising in the distribution of surplus value, not its production. As Paul Mattick puts it '[t]axes are a part of realised income through market transactions…'[79] While production and circulation 'intertwine and intermingle continually'[80] such that they 'adulterate their typical distinctive features,'[81] profit, a specific form of the more general category of surplus value, appears to the capitalist and indeed to the rest of society, as the real value and to arise in circulation, rather than production.[82] Further, profit appears to arise from total capital invested (that is from the cost of machinery, factories, land as well as labour) rather than from workers, or what Marx calls variable capital.[83] These surface realities, these appearances, find expression in the tax system.

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77 Karl Marx, above n 3, 814.

78 For example Marx says: 'Surplus-value and rate of surplus-value are, relatively, the invisible and unknown essence that wants investigating, while rate of profit and therefore the appearance of surplus-value in the form of profit are revealed on the surface of the phenomenon.' Karl Marx, above n 3, 43.

79 Paul Mattick, 'Monopoly Capital' in *Anti-Bolshevik Communism* (Merlin Press, 1978) <http://www.marxists.org/archive/mattick-paul/1966/monopoly-capital.htm>.

80 Karl Marx, above n 3, 44.

81 Ibid.

82 Ibid, 41.

83 Ibid, 42.

The income tax system involves itself with the money that arises from the exchange of commodities and the money value of labour, in other words the price received for the sale of goods and services in the market place and of labour power in the job market, not recognising the social relations that these represent. In this way the income tax system reflects capitalism and reinforces the mystique of capitalism. As Marx says: 'The mystification here arises from the fact that a social relation appears in the form of a thing.'[84] The 'thing' here appears on the one hand as the commodities produced and on the other as the money form of capital or labour, in turn profit, interest, rent etc or wages. The social relations are reified in both production and exchange which although viewed as separate are actually a unity or processes that describe capitalism. Marx again:

> A commodity is therefore a mysterious thing, simply because in it the social character of men's labour appears to them as an objective character stamped upon the product of that labour; because the relation of the producers to the sum total of their own labour is presented to them as a social relation existing not between themselves, but between the products of their labour. This is the reason the products of labour become commodities, social things whose qualities are at the same time perceptible and imperceptible by the senses ... It is only a definite social relation between men that assumes, in their eyes, the fantastic form of a relation between things.[85]

Further, it is not just that social relations between humans are viewed as relations between things. As Lukács points out the worker's 'own labour becomes something objective and independent of him, something that controls him by

[84] Karl Marx, *Theories of Surplus Value* (Progress Publishers, Moscow, 1978) 313.
[85] Karl Marx, above n 8, 77.

virtue of an autonomy alien to man.'[86] A world of commodities that the working class created confronts the working class as alien to them and alienated from them. The ability to perform work itself becomes a commodity in the reality that is capitalism and hence in the mind of the worker. As Marx says: 'What is characteristic of the capitalist age is that in the eyes of the labourer himself labour-power assumes the form of a commodity belonging to him.'[87]

It is not just that this process of reification is going on. It is also that in being paid wages, the worker and capitalist both imagine that what is being paid for is the labour of the worker, rather than her labour power. This further form of mystification Marx captures when he says:

> We see, further: The value of 3s. by which a part only of the working-day – i.e., 6 hours' labour-is paid for, appears as the value or price of the whole working-day of 12 hours, which thus includes 6 hours unpaid for. The wage form thus extinguishes every trace of the division of the working-day into necessary labour and surplus-labour, into paid and unpaid labour. All labour appears as paid labour. In the corvée, the labour of the worker for himself, and his compulsory labour for his lord, differ in space and time in the clearest possible way. In slave labour, even that part of the working-day in which the slave is only replacing the value of his own means of existence, in which, therefore, in fact, he works for himself alone, appears as labour for his master. All the slave's labour appears as unpaid labour. In wage labour, on the contrary, even surplus-labour, or unpaid labour, appears as paid. There the property-relation conceals the labour of the slave for himself; here the money-relation conceals the unrequited labour of the wage labourer.

[86] Georg Lukács, above n 76, 87.
[87] Karl Marx, above n 8, 167, footnote 1.

> Hence, we may understand the decisive importance of the transformation of value and price of labour-power into the form of wages, or into the value and price of labour itself. This phenomenal form, which makes the actual relation invisible, and, indeed, shows the direct opposite of that relation, forms the basis of all the juridical notions of both labourer and capitalist, of all the mystifications of the capitalistic mode of production, of all its illusions as to liberty, of all the apologetic shifts of the vulgar economists.[88]

In other words, the appearance makes the actual invisible. Yet this doesn't make the appearance less real to those who experience it. As god is the creation of humanity, she not only appears to exist, she exists. It is precisely because the idea of god or the illusion of wages being paid for labour performed come from the social relations of society that makes them real. As Marx says in relation to religion: 'But man is no abstract being squatting outside the world. Man is the world of man – state, society. This state and this society produce religion, which is an inverted consciousness of the world, because they are an inverted world.'[89] So too with the capitalist mode of production – our current society - and the relations of production which see workers selling their labour power in the job market to capital. Labour is free in two senses, free from any means of subsistence and free to sell itself for subsistence,[90] disguised as a wage seemingly paid for the actual labour performed.

Money is the universal equivalent. This means it becomes the mechanism for exchange by embodying the value that is then reflected in prices. Money

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[88] Ibid, 505.
[89] Karl Marx, *Introduction to a Contribution to the Critique of Hegel's Philosophy of Right* <http://www.marxists.org/archive/marx/works/download/Marx_Critique_of_Hegels_Philosophy_of_Right.pdf>.
[90] Karl Marx, above n 8, 166.

performs many roles in capitalism. It is the ultimate reification in one sense, obscuring what is ultimately an abstract, unstable and shifting notion that is the relations of production within enterprises, exchange between enterprises, and the complex of political and state activities that operate to enforce its power as a physical fact. What is behind money is not a thing called money but the whole of the social relations of capitalism, or, the complex of actions of real people that (re)produce the power of money as an external force. Money is an ideological proxy for the real power of real capitalists, politicians and bureaucrats.

It is money – in exchange, paid for wages, in capital, indeed in all its forms – that the tax system, including the income tax system, is concerned with.

The tax system is about real appearances, but buries the essence. Tax mystification is as to the source of surplus value and hence of profit, the exploitative relationship between capital and labour and the categories of taxpayers, categories which attribute income earning to different bodies (for example businesses earning profit).

What the tax system deals with is the end result of the market exchange process and hides the reality of the productive process, the process in which surplus value is created and how it is created. That reality, the reality of value, is obscured by the market and exchange. So the appearance is that workers are paid for all their labour and that capital creates profit. The reality is that it is the unpaid labour of workers which creates profit.[91]

The tax system operates in the realm of appearances. It reflects the appearance which itself is a surface reality but obscures the essence of things.[92] Marx

[91] Joan Robinson, 'Marx on Unemployment' (Jun-Sep 1941) 51 (202/203) *The Economic Journal* 234, 234.

[92] This article aims to bring to the surface the essence of income tax. For a more general discussion of the commodity-exchange theory of law, (a theory I hope to utilise in a future

describes this dealing with appearances which arises as a consequence of exchange on the market 'the fetishism of commodities' or 'commodity fetishism.'[93] So in the tax field the monetised form of value in exchange disguises the reality of all the human relations. Further, in terms of income tax the creation and distribution of the money form of that value becomes the basis for taxation by the capitalist state, not in the hands of the producers of the surplus value, or unpaid labour, but in the hands of those who expropriate the unpaid labour and to whom it is distributed in the process of circulation. This non-essence reality of companies earning profit, or banks interest, or landlords rent, is reification, that is just means that by 'attributing an independent life to the various forms of value, people succeed in transferring to them certain powers for regulating their own existence.'[94]

To paraphrase Marx, the sphere of exchange is the realm of equivalence and equivalents. Buyers and sellers exchange as free agents. They are exchanging 'their' property and receiving 'their' rewards. They look only to themselves and their private interests.[95]

These principles apply in the tax field too. The free market is the basis for income tax, a tax applying to the profit, interest and rent that arises in exchange and to wages paid. The result is that this fetishism expresses itself in the income tax field with an attempt to tax 'ordinary income' of companies and individuals. It doesn't distinguish between individuals on the basis of their class but on the basis of their income, an incomplete guide to class. It does distinguish between individuals and companies but hides the reality of exploitation and the creation

examination of judicial approaches to tax avoidance in Australia,) See Evgeny Pashukanis, *The General Theory of Law and Marxism* (Transaction Publishers, New Jersey, 2007).

93 Karl Marx, above n 8, 76-87.

94 Bertell Ollman, above n 43, 194.

95 Karl Marx, above n 8, 172.

of surplus value. It reifies the relationship by taxing companies as if they had created the surplus value when profit, that surface reflection of the surplus value, arises in the course of production and is realised in the process of circulation.[96] It arises from the labour used in producing commodities for the market. Thus the real human relationships are doubly hidden – in the labour process in production and in the realisation process in circulation.

Commodities replace humans and corporations make profit, with the human agency and human interactions hidden, except for the wise Board and CEO and other leaders. Company tax applies to the surplus value expropriated by an artificial entity whose existence is the humanisation of the inhuman.

It all seems so clear. We work 8, 9 or ten hours a day and are paid for our labour. Yet this is merely an appearance, an illusion.[97] We are paid for our ability to work, our labour power.[98]

We have already been introduced, briefly, to the labour theory of value and the creation of surplus value in the production process. Marx summarises this well when he says:

> In order to be able to extract value from the consumption of a commodity, our friend, Moneybags, must be so lucky as to find, within the sphere of circulation, in the market, a commodity, whose use-value possesses the peculiar property of being a source of value, whose actual consumption, therefore, is itself an embodiment of labour, and, consequently, a creation of value. The possessor of money does find on

[96] Bertell Ollman, above n 43, 194.
[97] Karl Marx, 'Wages Labour and Capital', in *Wages Labour and Capital plus Wages, Price and Profit* (Bookmarks, London, 1996) 23.
[98] Ibid; Karl Marx, above n 8, 164.

> the market such a special commodity in capacity for labour or labour-power. [99]

The capitalist buys labour power around its value, 'the value of the means of subsistence.'[100] As Marx puts it: 'The value of labour-power is determined, as in the case of every other commodity, by the labour-time necessary for the production, and consequently the reproduction, of this special article.'[101] It is special because, although capital purchases labour power, it is in the process of production that this labour power is set to work. It is in putting labour power to work that surplus value is created.[102]

What is missing from bourgeois economics and bourgeois law, including tax law, and tax teaching, is the idea that it is labour which creates value and what tax law for example does is reflect the illusory appearance of capitalism and thus reinforce, by doing so, the system's deeper reality.

The classic income tax formula of taxable income being assessable income less allowable deductions disguises the reality of the creation of surplus value in the productive process, and its realisation on the market and redistribution in the circulation process. It disguises the fact that profit and interest and rent arise from the exploitation of labour and wages from the sale of labour power.[103]

Let's look very briefly at two basic building blocks of the income tax system in Australia, income and the taxpayers who earn it to see if the ideas of Marx are

[99] Karl Marx, above n 8, 164.
[100] Ibid, 167.
[101] Ibid. Because needs and wants are also historically determined, 'there enters into the determination of the value of labour-power a historical and moral element. Karl Marx, above n 3, 168.
[102] Karl Marx, above n 3, 167.
[103] Ibid, 165.

able to help us understand those concepts in more depth and to serve as a template for further research for those inspired by a deepening insight in tax .

IV INCOME AND THE TAXPAYERS WHO 'EARN' IT

The Australian Government relies heavily on income tax to fund its activities and to fund grants to the States and Territories and local government to help fund their activities. Thus of the $317 billion the Commonwealth collected in 2011-12, almost $231 billion was from taxes on income.[104] Two complementary statutes impose income tax in Australia - *the Income Tax Assessment Act 1936* and *the Income Tax Assessment Act 1997*.

The general income tax sections are found in the *Income Tax Assessment Act 1997* (ITAA 97). Thus section 4-10 of ITAA 97[105] in effect says that income tax is worked out for each financial year for a taxpayer by applying the tax rate to taxable income and then taking away tax offsets (or rebates). Under section 4-15 taxable income equals assessable income less allowable deductions. Assessable income is the key concept in determining what income is included in taxable income and thus subject to income tax after costs in earning income are deducted. There is no statutory definition of assessable income.

Section 6-1(1) tells us that assessable income is ordinary income and statutory income. 'Statutory income is those amounts the legislature has stipulated are assessable.'[106] For example statutory income includes capital gains. Thus Part 3-1 sets out in hundreds of pages the rules for determining capital gains and losses and their inclusion in assessable income.

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[104] Australian Bureau of Statistics *5506.0 - Taxation Revenue, Australia, 2011-12* (Canberra, AGPS, 30 April 2014) <http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/5506.0Main%20Features22011-12?opendocument&tabname=Summary&prodno=5506.0&issue=2011-12&num=&view=>.
[105] All future section references are to the *ITAA 97* unless otherwise indicated.
[106] Cynthia Coleman et al, *Principles of Taxation Law 2011* (Thomson Reuters 2011) 62.

Most income is ordinary income and it is that to which I now turn. Under section 995-1 ordinary income has the meaning given by section 6-5. Subsection 6-5(1) says that your assessable income includes income according to ordinary concepts, which is called ordinary income. This is income which 'essentially refers to amounts which have been held to be assessable by the courts because they demonstrate certain characteristics.'[107]

First, income '… must be determined in accordance with the ordinary concepts and usages of mankind…'[108] What 'mankind' thinks is income and what judges think mankind thinks is income may well be two[109] different matters, since judges are part of the capitalist system and its institutional superstructure while most of 'mankind', in Australia at least, are working class women and men. Further the salaries senior judges receive of more than $400,000 per annum remove them from the ordinary day to day struggles of and pressures on workers on the average wage of around $76000 yearly in 2014.

That this different class world view exists is at least partially supported by the reference to mankind, a reflection of the time when men alone were capitalists and women wives and mothers. The acceptance of a broad concept of income, or even ordinary income, without questioning its source in any detail, is another indicator of a capitalist world view. Income is a given. It is also a category of generalisation arising from the process of circulating capital, of the intricacies contained in M-C- M'.

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[107] Ibid.
[108] Jordan CJ in *Scott v Commissioner of Taxation* (1935) 35 SR (NSW) 215 at 219.
[109] A more nuanced approach might say there could be a multitude of views but that judges as representatives of the ruling class are more likely to view what mankind thinks income is through the prism of their ruling class Weltanschauung. That might help explain why the judges did not and do not consider capital gains (growth in capital) as ordinary income.

As explained above, C is actually the purchase of commodities, not just constant capital but labour power. The purchase of that labour power is an exchange between seeming equals in the labour market, between those who own the means of production and those whose freedom is to sell their ability to work just to survive. Workers are free to sell their labour power because they have been freed from the means of production. That C comes from the M that arises in the circulation of capital. As Marx puts it: 'Wages are, therefore, not the worker's share in the commodity produced by him. Wages are the part of already existing commodities with which the capitalist buys for himself a definite amount of productive labour power.'[110]

So wages come out of existing capital/money, capital/money their labour has previously produced. But they are also a draft or draw down on future labour and consumption. As Marx puts it:

> This money [for wages- JP] is not only the money-form of past labour of the labourers but at the same time a draft on simultaneous and future labour which is just being realised or should be realised in the future. The labourer may buy with his wages a coat which will not be made until the following week. This applies especially to the vast number of necessary means of subsistence which must be consumed almost as soon as they have been produced to prevent spoilage. Thus the labourer receives, in the money which is paid to him in wages, the converted form of his own future labour or that of other labourers. By giving the labourer a part of his past labour, the capitalist gives him a draft on his own future labour.

[110] Karl Marx, 'Wage Labour and Capital' in *Wage labour and capital & Wages, price and profit* (Bookmarks, London, 1996) 25.

> It is the labourer's own simultaneous or future labour that constitutes the not yet existing supply out of which he will be paid for his past labour.[111]

To put it at its simplest, all wages come out of surplus value. This is as true for unproductive workers (public servants, bank employees, retail employees) as it is for productive workers. Unproductive workers are part of the process of the circulation of capital which sees surplus value realised in the market.

A Taxing Wages

Irrespective of whether workers are productive of surplus value or not, they are paid for their labour power at its value or variations around that. A competitive labour market imposes the law of value on all workers, productive and unproductive. What this means, as we saw before, is that the value of labour power is, like all commodities, the socially necessary labour time required for its production and reproduction. This is not bare subsistence but will vary for example because of the length of training of the individuals involved, the market demands for their skills and so on. But the means of production and reproduction, plus the moral and historical element Marx refers to, mean that it is akin in price terms to the average wage in the particular country. Of course this wage is the phenomenal form of the essence and disguises the essence, namely that payment of wages is for the capacity to labour, not the labour itself. Marx makes this idea of the average wage being the price form of the value of labour power clear in The Economic Manuscript of 1861-1863 when he says:

> An increase in surplus value achieved by reducing wages below their average level (without increasing the productivity of labour) is an increase in profit achieved by forcing the worker below the level of his normal conditions of life. On the other hand, an increase in wages over their

[111] Karl Marx above n 8, 73-74.

> normal average level is, on the part of the worker, a sharing in, an appropriation of, a part of his own surplus labour (similarly assuming the productive power of labour remains constant). In the first case the capitalist encroaches upon the vital conditions of the workman, and upon the times of labour necessary for its own sustenance. In the second case the workman expropriates part of his own surplus labour. In both cases the one loses what the other gains, but the workman loses in life, what the capitalist gains in money, and in the other case the workman gains in enjoyment of life, what the capitalist loses in the rate of appropriating other people's labour.[112]

It is the wage payment, seemingly for the labour done but actually for the labour power of the worker, that itself hides this reality. By taxing a worker's wage the income tax system both accepts the reality of the surface phenomena of wages and hides the reality of their essence. But it is more than that. The income tax system, in taxing wages, cannot, at least in normal economic circumstances, fundamentally undermine the price expression of the value that is inherent in the labour power of the worker. Income tax on workers' wages is drawn, not out of the paid labour of the worker, but out of their unpaid labour, i.e. out of the labour that is surplus value and whose ultimate form is realised in the markets as profit, interest, rent and the like.

In other words, in taxing workers' wages, the state is actually taking a share of the surplus value from capitalists, who of course have expropriated it from workers themselves. This however is a tentative statement because the relationship between capital and labour, a social relation, and the wage or money expressions of that relationship depend on other factors such as supply and demand as well as class struggle. An example, a very simple abstract example, may help.

112 Karl Marx, *Economic Manuscript of 1861-63* (Progress Publishers, Moscow, 1988) 234-235.

Suppose a worker is paid $1000 a week and produces $2750 worth of goods. Assume too that the non-labour costs to produce this are $1250 a week. There is no tax. Assume too for the purposes of exposition that these prices reflect the underlying value contained in them. So by the purchase of commodities worth $2250 a week the capitalist increases their wealth to $2750, an increase or gain of $500. In terms of the general formula of capitalism,[113] M-C- , money of $2250 is transformed into commodities of the same value which magically yield goods or services in the market with a value and sale price of $2750. This magical extra $500 comes from the worker.[114]

And that magic M' arises because the worker is paid for their labour power not the value of what their labour produces. In other words this surplus value in money-price form, this $500, is the unpaid labour of the worker. The $1000 paid to the worker is enough to replenish her to come to work the next day and be productive (for example food, clothing, housing, transport, entertainment, rest) and to provide for her kids, (the next generation of workers.) It also contains a moral and historical element. Some workers' needs such as food, water and rest come from being human. Other needs are socially determined. A few drinks comes to mind. I on the other hand must watch the cricket, and even worse, must watch St George Illawarra (Rugby League) and Collingwood (Australian football) win game after game and premiership after premiership. To do this, and to keep abreast of the latest news too (a lesser priority compared to St George and Collingwood premierships) my needs include not just the spiritual ones of sport but the physical ones of a television and computer. This historically and societally created need when satisfied replenishes the soul.

[113] Karl Marx, above n 8, 153.
[114] Ibid, 164.

So when tax is imposed, assuming that her physical and emotional needs remain the same, the tax on the worker's wage will initially, if current real wages are protected legally or industrially, come out of the unpaid labour, that is the $500, of the worker which is then expropriated by capital. In other words taxes on wages reduce the amount of surplus value and hence of profit flowing to capital.

This is a static view and as we have seen above capitalism is capital in motion. Capital will attempt to recoup any lessening of its return on investment and the surplus value that will be transformed into profit etc. Labour may attempt to increase wages to retain current living standards.

There are a number of ways capital will attempt to recoup any loss in profit arising from taxes on wages that aren't accompanied by reduced real or relative wages. It may try to increase prices and whether it can do so or not will depend in part on the nature of the market it operates in – local markets and local competitors with the same tax burden or local but with international competitors or international with international competitors. It may accelerate investment in industries that reduce the cost of labour power (e.g. cheaper food, transport etc). It may push to have great big new taxes abolished, or reduced, or as in the case of the Minerals Resource Rent Tax, redrafted to become a shadow of its former proposed self.[115] A concomitant of this might also be a push to reduce the social wage going to labour in order to fund the reduction in surplus value which the imposition of an income tax on wages may produce and in the long term reduce taxes on capital. Over time too, capital will attempt to reduce the price of labour power and that could involve, combined with tax increases on wages, lower real or nominal ages, or relative wages.

[115] John Passant, 'Lessons from the Recent Resource Rent Tax Experience in Australia' (2011) 10 (2) *Canberra Law Review* 159,170

To recap, and the quote Harman again, 'individuals will attempt to recoup their loss of purchasing power by struggles at the point of production – the capitalists by attempting to enforce a higher rate of exploitation, the workers by attempting to get wage increases.'[116]

Let's see where taxes on profit are extracted from.

B Taxing Profit

It is axiomatic that taxes on profits come out of profits. However the economic incidence may be different to the legal incidence. Capital in motion and the level of class struggle would determine where that economic incidence falls. However we need to look deeper than just profits being the profits of capital.

We discussed above the prices of production and the equalisation of profit rates within and across industries as a never ending and ongoing process of movement towards a holy grail of an average profit rate. For business income, the specific form of income is an eternal dance around the prices of production or costs plus the average profit rate.[117]

Company and other business entity taxes are not a tax on surplus value. Company tax is a tax on profits, i.e. the company's assessable income less allowable deductions. Leaving aside nuances not necessary for our discussion that is essentially what the prices of production and their realisation on the market produce. Cost plus an average profit rate determine the prices of production and if the commodities then sell on the market they are the assessable income component of what becomes taxed as company or other business taxable income. In other words what is taxed is the reality of surplus value realised in the market place, hidden, disguised but the driving force behind the whole system.

[116] Chris Harman, above n 2, 113-114.
[117] Karl Marx, above n 3, 157.

The fact that workers create that surplus value and it is expropriated by the owners of capital, the owners of the means of production, is hidden by the system itself and hidden too by an integral part of it, the income tax system. By positing companies as earning profits or other income and taxing them on what appears to be theirs, but what is in reality the unpaid labour they have taken from workers, the tax system reifies companies, reflects the appearance of equality and payment for labour and disguises the reality of exploitation.

M-C-M' 'corresponds directly to the income, or profit and loss statement, of a capitalist firm.'[118] Money arises in every step but we shouldn't see it as a linear process. In the circumstances of modern capitalism and the capitalist state, tax follows money like a bloodhound. Tax impacts on all sections of this process. Thus income taxes tax the after event revenue gained by the various hostile brothers in all of the M — C ... P ... C' — M' stages. Clearly that revenue is not surplus value but rather an expression of it, its embodiment, in disguised form both as to its nature - profits, interest, rent, wages - and for the hostile brothers as to the so-called earning entity. For workers (and indeed for bosses) the mystification is as to the nature of wages and who creates surplus value and its market forms such as profits and future wages.

This idea that capital earns profit is an example of reification, which just means that by 'attributing an independent life to the various forms of value, people succeed in transferring to them certain powers for regulating their own existence.'[119] Capital is one of those forms of value and capital in the form of companies is the reification of reified relations. We attribute to companies all sort of powers (including in the US, according to the US Supreme Court,

118 Duncan K Foley, *Understanding Capital: Marx's Economic Theory* (Harvard University Press, 1986) 33.

119 Bertell Ollman, above n 43, 199.

personhood[120]) and one of those is that it earns income rather than exploits workers and expropriates their unpaid labour or is part of the food chain of distribution which sees surplus value in price form delivered it to it.

Money performs different functions. It is and becomes capital. It is the universal equivalent, i.e. it facilitates exchange. It expresses the value of labour in products to enable that exchange to occur in the context of market conditions. In the hands of capital it buys labour power and means of production. It is what the income tax system taxes when it arises as a form of income in the market or is paid to workers as wages.

Money, income tax, capital earning profit – all hide the reality that productive labour creates surplus value and it is ultimately from this pool, realised though the market and distributed as profit, interest, rent, wages and the like, that tax is drawn

Finally, Marx argued that inbuilt into capitalism is a tendency for the rate of profit to fall. This is because competition drives investment in capital to increase at a greater rate than investment in the one element that produces surplus value, namely labour. All other things being equal this means a falling rate of profit. Of course, not all things are equal and one of the countervailing tendencies is pressure from capital to reduce taxes, especially those they perceive borne by

[120] 'In the Montana case, the Supreme Court had the chance to revisit its deeply flawed 2010 decision in Citizens United. But despite the urgings of members of the Court itself and a public shell-shocked by the recent torrent of unregulated corporate expenditures, the Court chose instead to double down and reaffirm the conclusion of Citizens United that corporations are people -- at least as far as the First Amendment is concerned.' Rep. Adam Schiffjul, 'The Supreme Court Still Thinks Corporations Are People' *The Atlantic* 18 July 2012 < http://www.theatlantic.com/politics/archive/2012/07/the-supreme-court-still-thinks-corporations-are-people/259995/>.

them. This in a nutshell is what the Henry Tax Review was and is about[121] and what I suspect the Coalition government's Tax White paper will have at its core.

To summarise, income tax is all about surplus value. Yet there is no mention or understanding of this in the Tax Acts or our teaching. The income tax system reflects the blindness of capitalism to its essence.

Having talked at a certain level of abstraction, let's now look at the nitty gritty of some aspects of income tax teaching in Australia.

C Income as Flow and Taxpayers as Income Earners

Many tax teachers will, as part of teaching introductory tax, give the standard spiel about income as flow, the idea that income flows from something else. As Gilders et al put it:

> Generally income is understood as arising from 3 pursuits:
>
> 1. as remuneration for personal services;
> 2. as the rewards from carrying on a business;
> 3. as a return on investments.[122]

This income as flow approach is often attributed to the development of trusts and the trust law distinction between income gains and capital gains.[123] Of course trusts began their life as a tax avoidance mechanism at around the time of the birth of capitalism in England and a fruitful area for future examination might be the relationship between income as flow and the rise of capitalism, in particular the capital accumulation process and the difference then developing between

[121] John Passant, above n 69.
[122] Frank Gilders, John Taylor, Michael Walpole, Mark Burton, Tony Ciro, *Understanding Tax Law 2010; An interactive approach* (Lexis Nexis 2010 4th edition) 51.
[123] See for example Coleman et al above n 106, 103; Gilders et al, above n 122, 50.

constant capital and variable capital[124] and between productive capital and unproductive capital (e.g. investment capital).

While the position is not without controversy, income as flow is the approach judges, many tax experts and teachers in Australia adopt.[125] Flynn notes:

> The second principle for distinguishing between income and capital receipts is that income is a detached flow. This principle is much maligned and often not acknowledged. Despite the reluctance to acknowledge it or to fully explain its reach, the influence of the flow concept is persistent and familiarity with its manifestations essential for an understanding of the income/capital distinction. [126]

The concept of income as flow is appropriate in relation to passive income such as rent, interest, royalties and dividends flowing from underling passive investments. As Flynn notes …' the concept is sometimes said to also apply to salary and wage income and income from operating a business.'[127] It is easy to see why. Salary and wages appear to flow from the labour we workers do. Under capitalism our labour power, but in the common view our labour, is an asset to be sold in exchange for regular and periodic payments as work is done. Profit appears to flow from business, a combination of capital and labour or, in Marxist terms, of constant and variable capital.

We might even mention tree and fruit analogies, drawing on the old US case of *Eisner v Macomber* and the famous comment of Pitney J that:

[124] Karl Marx, above n 8, 193.
[125] Gilders et al, above n 122, 42.
[126] Michael Flynn, 'Distinguishing Between Income and Capital Receipts - A Search for Principle' (May/June 1999) 2(3) Journal of Australian Taxation 155, 162-163. Ross Parsons for example makes no specific reference to income as flow in his 15 principles of income tax. RW Parsons, *Income Taxation in Australia* (1985) para 2.7
[127] Michael Flynn, above n 126,160.

> The fundamental relation of 'capital' to 'income' has been much discussed by economists, the former being likened to the tree or the land, the latter to the fruit or the crop; the former depicted as a reservoir supplied from springs, the latter as the outlet stream, to be measured by its flow during a period of time.[128]

Let's stick with tree and fruit. This analogy doesn't hold up because it imagines one aspect as something out of which the other grows – fruit out of the tree rather than say as the fruit creating the tree which creates the fruit. Of course if we begin to imagine capital as something constantly in motion and recreating and propelling itself through the continual purchase of labour power and the exercise of that power in production, then the missing element in the static analogy of tree and fruit is the earth feeding the tree. That earth is labour.

The flow analysis and tree and fruit analogy are superficial. We only have to ask the question 'how does the specific income arise?' to see the problems.

How does profit flow from business and, if it does depend even in part on someone's labour, whose? How can this magic entity capital create income, whether it be profits or rent or dividends or interest? Similarly, what are wages? It is these deeper questions which are hidden both in and by our teaching but more importantly, since our teaching is about the tax system itself, in and by the tax system. The income tax system assumes a priori that wages, profits, rent, dividends and interest exist as separate categories, earned or created by different entities. The system's structure and approach reflect and reinforce this 'reality'. Yet what if, as Smith sometimes argued and Ricardo did argue,[129] and Marx

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[128] (1919) 252 US 189, 206.

[129] John Passant, 'A basic guide to taxing economic rent in Australia' (2012) 11(2) *Canberra Law Review* 100, 104 <http://www.canberra.edu.au/faculties/busgovlaw/attachments/pdf/CLR-2012-Version-8d-Final.pdf>.

refined, it is labour which is the source of surplus value and hence of profits and rent and interest and dividends, and the sale of labour power the source of wages, with wages themselves a payment out of previous accumulated surplus value?

If, as I argue, that is in fact the case then the income tax system is built on and builds the system of exploitation and slavery that is capitalism. It is predicated on the division between living labour and dead labour and the sale of labour power and the redistribution of surplus value through the market to different factions of capital, all of which then enables the whole process of capital in motion for the purchase of labour power and capital for the process to begin again and to continue.

Ordinary income then becomes a cover all, not for describing the general concept of surplus value but for giving the appearance of similarity and equality between labour earning income in the form of wages and capital earning it in the form of profit, interest, rent and so on. It is a cover all that becomes a cover up.

Even when the exchange system particularises income into profit, wages, rent, interest, dividends and so on the nature of the source of that flow, from labour, is hidden. Instead variations on the trinity formula – capital-profit; land-rent; labour-wages[130] – is the prism though which income being derived is viewed and taxed.

The other tax appearance that disguises a very different reality, in fact a reality that turns the appearance on its head, is the idea that taxpayers derive income. 'Taxpayers' is another catch all. We are here in the realm of commodities and their exchange not that of production so that the bland term taxpayer disguises

[130] Karl Marx, above n 3, 814.

the reality of the class divisions in circulation but crucially in production and with that disguises where wealth is created and by whom.

Terms like taxpayer serve another purpose. The general term taxpayers and its use in phrases like 'taxpayers are paying for this' gives the impression we are all taxpayers. The reality is rather different. Between 2005 and 2008 40 percent of big business paid no income tax.[131] They were not taxpayers, a fact many working class taxpayers might grasp intuitively although the large number of big businesses not paying tax might astonish them. But even if every business paid tax at an effective rate of tax of 30 percent, the current company tax rate in Australia, it would be a tax not on the wealth they have created but on the surplus value realised in money form in the market but which is created by labour. Although the appearance is that this is the profit of capital, the reality is that such profit is no more that of capital than is the moon.

Taxpayers derive income and can only be taxed on income that they have derived.[132] Derived is not defined and takes its ordinary meaning, influenced by accounting and legal concepts.[133] While it is not limited to receipt, it is not necessary to go into the nuances but to say that income is derived when the property relations and laws that reflect those relations result in an amount of surplus value finding its way into the hands and thus under the control of the owner of that property. As Judges have said income is what comes in.[134] Income comes in to the hands of capital because it owns both the labourer and their product and the means of production. It owns the labourer through the contract

[131] Jim Killaly, Examining Compliance, ATO Governance & Tax Risk Management <http://www.ato.gov.au/Media-centre/Speeches/Examining-Compliance,-ATO-Governance---Tax-Risk-Management/>.

[132] Section 6-5 of ITAA 97 in its various fact situations says that assessable income includes the ordinary income you derived directly or indirectly …

[133] Gilders et al above n 122, 168.

[134] Lowe J in Re Income Tax Acts (No 2) [1930] VLR 211 at 233

of work, a contract between equal buyers and sellers, in which capital buys from the worker her labour power and puts it to work to produce commodities which are the property of the capitalist. This commodity is then exchanged on the market for M', money. Then begins again the process of the creation of surplus value in production and its realisation in exchange.

Because tax on business arises in the exchange process it deals with money. Money as mentioned before is the universal equivalent. This means that among other things it embodies the value of labour in the commodities bought and sold. Paper can only have such a role if we give it that role. We give money the status of universal equivalent because we believe it is the universal equivalent, i.e. we believe it has some value and worth.

This explains why one of the characteristics of income is that it must be money or money's worth. [135] Because the tax system reflects the primacy of circulation, of the market, and that market is a market in which goods exchange around their value for a universal equivalent of value, namely money, tax can only be applied to the results of that exchange process, namely money, or money's worth to overcome avoidance.

So when a company works out its taxable income what we are mapping is the process of M-C- M'. The state then taxes M' in money form before it goes back into the next round of M-C-. This formula M-C- M' disguises the role of labour power and labour in creating surplus value. The key is the purchase of labour power and the payment of wages for that occurs to in money as representing the socially necessary labour time for the production and reproduction of that labour power. It is only in paying wage as money that the full freedom of being a worker

[135] *Tennant v Smith* [1892] AC 150.

under capitalism is realised – not just as a producer or facilitator of surplus value but also in its other main guise for capital, as consumer.

One of the other indicia of income (but not determinative) is that income is regular or periodic. This arises for two reasons. Workers receive regular pay periodically (normally weekly, fortnightly or monthly) after they have performed work because capital wants to ensure they have forced an adequate amount of commodities out of them after the event and judged regularly as part of the process of exploitation. The receipt of profit is an ongoing process in the market as commodities are sold. But not only that. The never ending process of capital accumulation requires that the profit re-enter the system to buy more labour power and means of production to produce more money to produce more capital. This is the logic of capitalism and so the repetition and regularity of profit receipts are key parts of the income tax system and the judicial analysis of what is income.

V CONCLUSION

This paper has introduced readers to some basic Marxist concepts and applied them briefly to the income and earning appearances in the tax system to hopefully reveal the essence of the system. This reality is that the tax system applies to money receipts of business in the market where commodities are exchanged and surplus value is converted into a money form. The state through its tax system is a parasite on the vampire of capital, living off the blood the vampire has extracted from workers.

The income tax system in its operation reflects and reinforces the appearances of income earned that arises in the market, in the exchange of commodities in capitalism but in doing that disguises the reality of the exploitation of workers in production that is the essence of the capitalist system.

The ideas canvassed in this paper may give readers and researchers building blocks for an alternative understanding of tax. They are not new ideas, but they deserve re-examination in a new context, and may perhaps inspire future research by others.