

# REFLECTIONS ON STATE TAX POLICY AND ADMINISTRATION

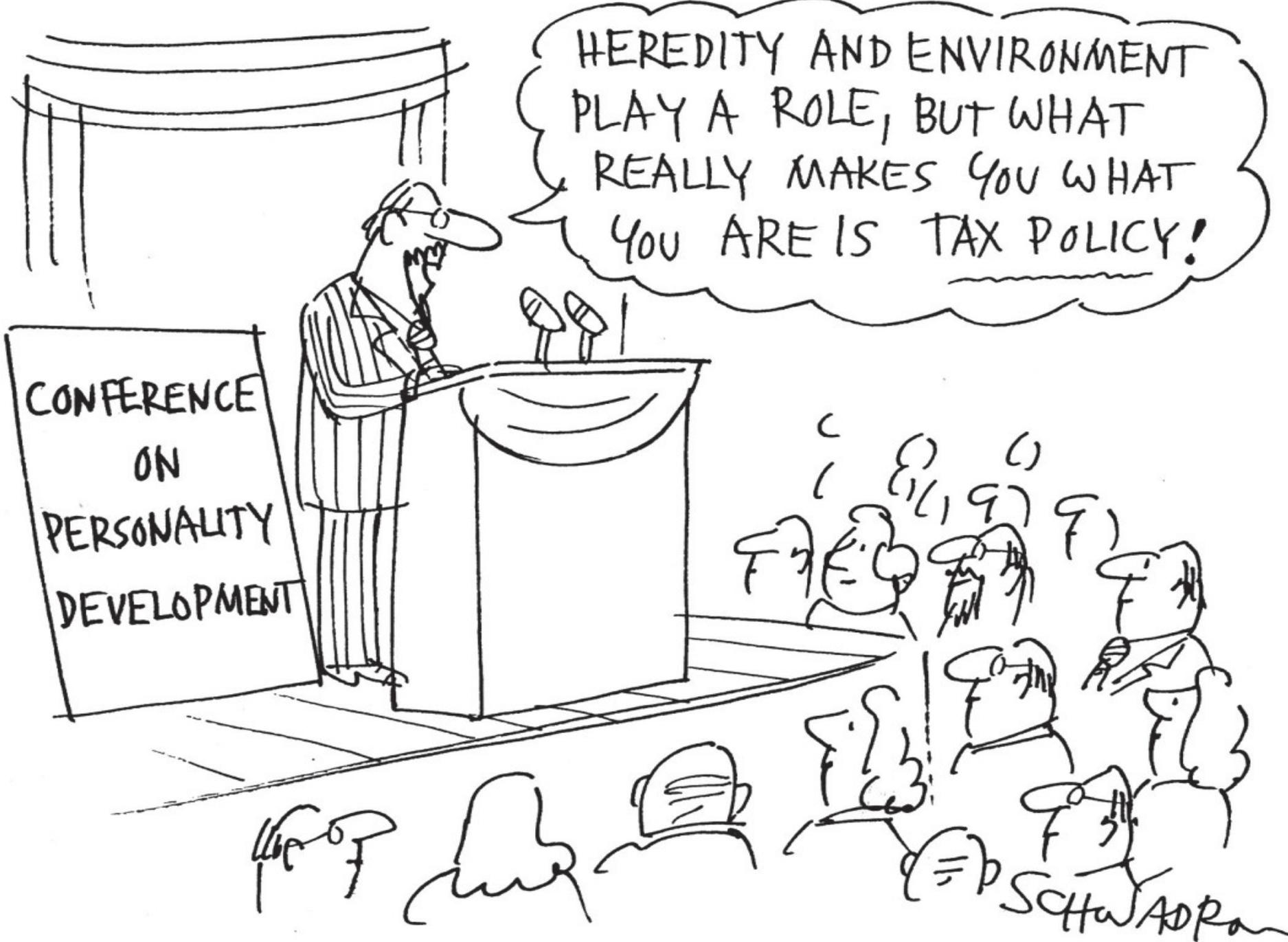
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Arizona Tax Conference  
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# OVERVIEW

- ① megatrends
- ② tax policy: a simplified approach
- ③ law, tyranny and discretion

# MEGATRENDS

- ① **technology, globalization and the mobility of capital**
- ② **economic development pressures**
- ③ **outdated tax rules**
- ④ **the tax assignment problem**
- ⑤ **the professionalization of state and local tax administration**



CONFERENCE  
ON  
PERSONALITY  
DEVELOPMENT

HEREDITY AND ENVIRONMENT  
PLAY A ROLE, BUT WHAT  
REALLY MAKES YOU WHAT  
YOU ARE IS TAX POLICY!

Schwador

# THE THREE BASIC ASPECTS OF TAX POLICY

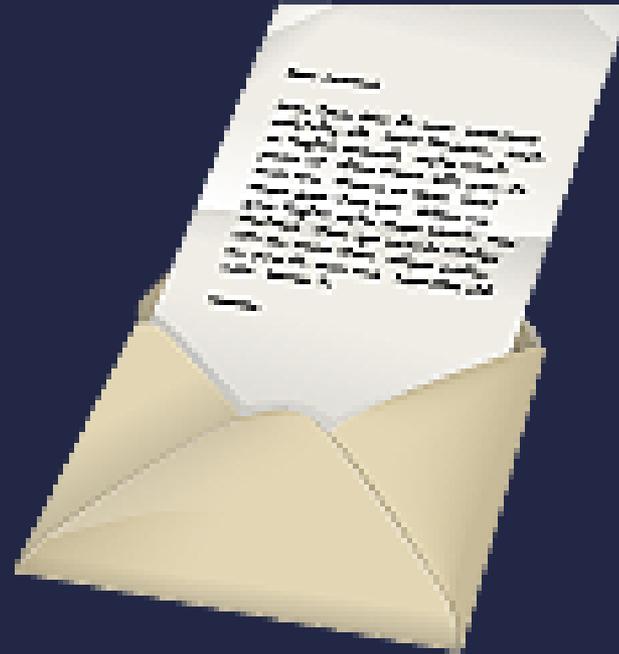
- ⦿ equity (“getting it right”)
- ⦿ administrability
- ⦿ non-tax policy goals

# EXAMPLES

- ① **Meals and entertainment**
- ① **cost of living adjustment proposals**
- ① **property tax valuation formulas**
- ① **economic stimulus legislation**
- ① **sin taxes**

# LAW, TYRANNY, AND DISCRETION

## Deemer letters



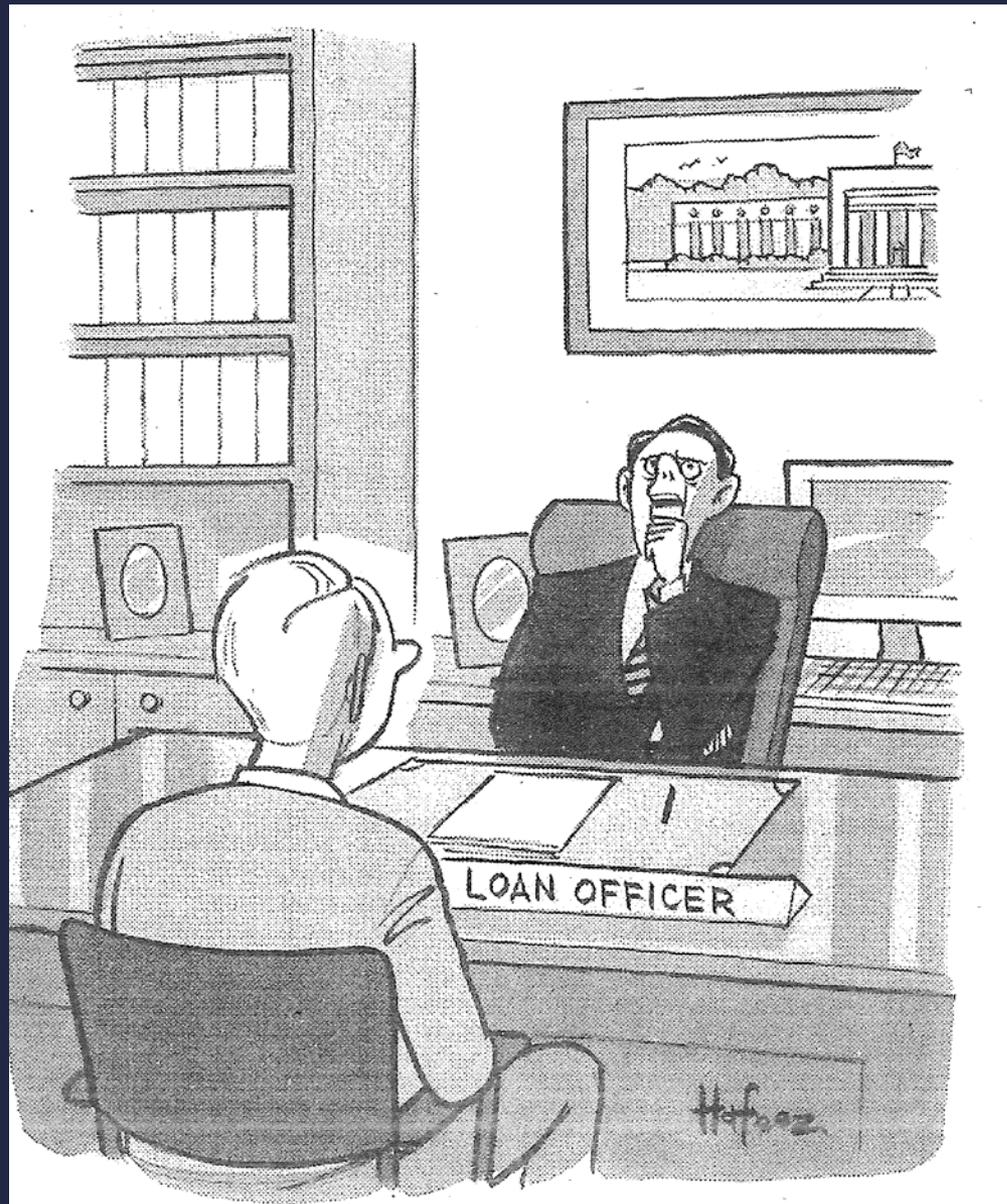
**“Where law ends tyranny  
begins.”**

**William Pitt (engraved in  
stone on the Department  
of Justice Building in  
Washington, DC)**

“

**“Where law ends, discretion begins,  
and the exercise of discretion may  
mean either beneficence or tyranny,  
either justice or injustice, either  
reasonableness or arbitrariness.”**

**Kenneth Culp Davis,  
Discretionary Justice (1969)**

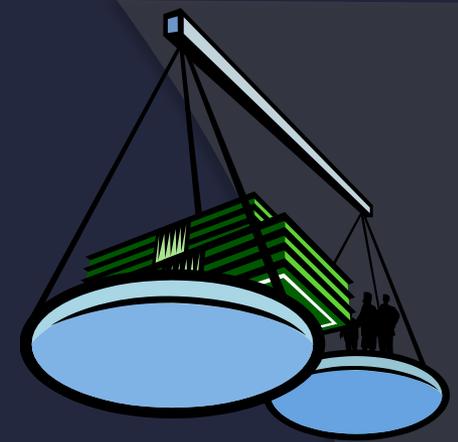


*“Okay, final question: I’m thinking of a number between one and 100.”*

# DISCRETIONARY JUSTICE

- ⦿ **The Black Box**
- ⦿ **institutional norms**
- ⦿ **the IRS model**
- ⦿ **Deemer letters revisited**
- ⦿ **the professionalization of state and local tax administration**

# THE COST OF TRANSPARENCY: IS IT WORTH IT?



- ⦿ *Delhaize America, Inc. v. Lay* (NC)
- ⦿ “The Department refused to provide guidelines to the public because taxpayers would restructure their transactions to fall outside the guidelines.”
- ⦿ it “would be like handing a gun to the guy that is about to rob us.” (quoting internal email)

# CONCLUSION

- ⦿ **If you draw a line, taxpayers are going to come up as close to it as they can**
- ⦿ **Is tax avoidance “bad”?**
- ⦿ **Doesn't fairness demand that taxpayers be informed of what is permitted and what is not?**