The Political Economy of Communication
8(1), 2–17

http://www.polecom.org

Advertising as a Tax Expenditure: The Tax Deduction for Advertising and America's Hidden Public Media System

Brenton J. Malin, Department of Communication, University of Pittsburgh

Keywords: Media policy, economics, political economy, advertising, taxes

Abstract

This article explores a series of media policy and political-economic issues created by the United States Federal tax deduction for advertising. Because American companies are allowed to deduct the entire cost of an advertisement for the year in which they purchase it, this tax deduction serves as a kind of government subsidy for advertising and the media more generally. By channeling tax money to commercial media outlets, this deduction creates a hidden public media system that distorts and inverts the presumed policy goals of government media funding. I begin by offering a brief history of this tax deduction, which was first implemented in the early 20th century, before moving on to discuss tax expenditures—a tax policy concept used to call attention to the hidden impact of tax deductions and other preferential tax treatments. Finally, I quantify the economic impact of the United States Federal tax deduction for advertising and demonstrate the upside-down nature of the hidden media system it supports. Treating this deduction as a tax expenditure would force greater transparency regarding the funding it provides and open up the hidden media system to greater analysis and critique.

Is advertising an expense or an asset? This question may sound inconsequential to all but the accountants who record advertisements in their ledgers. However, this article seeks to demonstrate the central importance of the issues raised by this and related questions for the political economy of the American media system. In current accounting and tax law, advertising is treated as an "ordinary and necessary" expense. This allows American companies to deduct 100% of most advertising spending from their overall income. Coupled with the various other ways that American corporations avoid paying taxes, this can lead to significant reductions in tax money available to the public. While this deduction may not be significantly different from a host of others that corporations can claim, it has significant consequences for the broader media ecosystem.

This essay's exploration of the tax deduction for advertising contributes to a growing discussion of the important role that taxes play—or could play—in our media system. In her discussion of how corporate interests continue to dominate in the digital-era, Taylor (2014) suggests placing a tax on advertising as a way of raising money to support public media and other cultural and artistic practices that are devalued in a corporate-driven media system. Similarly, Fuchs (2018) has argued for the implementation of an online advertising tax to help ensure that companies such as Facebook pay more money back to the public that supports them. In their report, *Beyond Fixing Facebook*, Free Press writers Karr and Aaron (2019) likewise argue for placing a tax on targeted online advertising as a way to raise money for independent, non-commercial journalism. Finally, former Democratic Presidential candidate Andrew Yang included taxes on digital advertising in his broader proposal for economic reform as a similar "Digital Services Tax" gained support throughout much of Europe (Cui, Forthcoming, Kofler and Sinnig, 2019). Underscoring the importance of attending to taxation, Mayer's (2017) study of the film tax credit in New Orleans further highlights the need for a kind of critical tax studies approach within media studies. While media activists, policy makers, and some scholars are beginning to recognize the important role that taxes play in the economic functioning of the media, they have been vastly under researched within media scholarship.

Tax deductions function like government subsidies in that they provide public money—in the form of reduced tax payments—in exchange for certain kinds of behavior. The tax deduction for mortgage interest is meant to encourage home ownership and is roughly equivalent to the government giving home buyers money to cover a portion of their loans. The US Department of Treasury itself recognizes these equivalences in the concept of the "tax expenditure," which identifies deductions and other elements of the tax code that stand in for more direct forms of government support. According to Stanley Surrey (1973), a law professor who coined the phrase when working in the Treasury Department, "the system of tax expenditures provides a vast subsidy apparatus that uses the mechanics of the income tax as the method of paying the subsidies" (6). The advertising tax deduction serves as a kind of government subsidy for the media. The government gives corporations public money, in the form of reduced tax liability, in exchange for purchasing advertising space in media outlets. As a result, the United States' commercial media system contains a "hidden" public component, similar to the hidden welfare system that Christopher Howard (1997) has argued is present in a range of social policy tax expenditures. Owing to the tax deduction for advertising, the US has a kind of de facto public media system built into its commercial model—but one in which corporations, rather than the government or viewers, get to decide how public money is distributed.

For reasons I will discuss, advertising is not currently counted as a tax expenditure by the Treasury Department and as a result is not tracked in their annual "tax expenditure budget," which aims to add transparency to these hidden elements of the national budget. This article considers what it would mean to count advertising as a tax expenditure and makes the case for doing so. I begin with a brief discussion of the history of advertising taxation and then discuss some important secondary literature on advertising and taxes. I then move to a discussion of tax expenditures and their financial and larger public impacts. Following this, I calculate and discuss some of the financial impact of the tax deduction for advertising and show how it mirrors the public policy problems associated with other tax expenditures. I conclude by offering some suggestions for how to address these problems. Treating the advertising tax deduction as a tax expenditure would force greater transparency regarding the commercial funding of our media system and could help to encourage public sentiment for a more robust, non-commercial media within the United States.

Ordinary and necessary

The United States' first Federal corporate income tax was implemented in 1909. As is often the case with tax issues, there is disagreement over when advertising was first seen as an allowable deduction within this new system. A 1915 treatise on tax law claims that advertising is not then an allowable deduction—though the author believes it should be (Black, 1915). In his book, *Income Tax Procedure*, Robert Montgomery (1917) claims that the deduction was first allowed in 1917. In contrast, a 1918 article in the advertising trade publication *Printer's Ink* ("Will Advertising Be Taxed in the New Revenue Bill?," 1918), likely illustrating a somewhat predictable pro-industry self-interest, claims that advertising had been allowed as a tax deduction for as long as the new Federal tax system had been in place. Indeed, when Congress debated advertising related taxation questions connected to the *Revenue Act of 1918*, a representative of the proprietary medicine industry admitted that many companies had been claiming the tax deduction for advertising even before it was formally legalized (*Hearings Before the Committee on Ways and Means, House of Representatives, on the Proposed Revenue Act of 1918*, 1918: 706). In any case, the United States has been subsidizing the commercial media through a tax deduction for advertising since at least 1918—and perhaps still earlier.

Disagreements over when this deduction was allowed are part of a larger set of debates regarding advertising and taxes. For a brief period of the 19th century, the United States put in place a tax on advertising similar to that advocated by Taylor and others. As part of the *Revenue Act of 1862*, publishers of periodicals were to pay a 3% duty on the gross receipts of advertising sales over $1000 ("Revenue Act of 1862," 1862). The repeal of this duty in 1867 did not end the debate over an advertising tax. In fact, the congressional discussion over advertising and taxes as part of the *Revenue Act of 1918* was in regard to whether the country should put in place a new advertising tax to raise revenue for the war. This measure ultimately failed, as would subsequent attempts, to impose an advertising tax, including a 1940s bill that would have both imposed such a tax and eliminated the Federal tax deduction for advertising ("Advertising Tax Act," 1940). Showing just how strongly rooted the principle of the tax deduction for advertising had become in American business, an editorial in the trade magazine *Sales Management* accused the senator who proposed the 1940s bill of seeking "to sabotage our national economy" with a "brutal" attempt "to wreck the normal functioning of peacetime business" (Bill, 1941: 90).

More recent attempts to modify the tax deduction for advertising have seen similar reactions. In 2013, Montana Democratic Senator Max Baucus proposed a tax reform package that included a reduction in the advertising spending companies could deduct in a single year. They would be allowed to deduct 50% of their spending in the year they spent it and the remaining 50% would be amortized over the next five years (Joint Committee on Taxation, 2013). In 2014, Dave Camp, a Republican Representative from Michigan, introduced a similar measure—but with an amortization period of ten years—as part of his own tax package ("Tax Reform Act of 2014", 2014). Despite this bipartisan effort to limit the tax deduction for advertising, both measures failed after pushback from the media and advertising industries. An editorial in *Fortune* accusing Camp of "attacking the tax deduction on ads" claimed that by setting limits on this deduction the Camp bill was "punishing a whole class of companies that rely on TV spots, billboards, and magazine spreads to sell their shoes, cosmetics, and soft drinks, not to mention the players that sell those ads" (Tully, 2014). The tax deduction for advertising remains a carefully guarded "right" of corporations and media companies alike.

The Baucus and Camp bills sought to address the ambiguity of advertising's status as an expense or asset. When corporations deduct the entire cost of their advertising spending in the year that they spend it, they treat it as an expense—something that presumably offers only immediate or short-term benefits. But tax experts and accountants debate whether advertising should be treated as an asset to the extent that it can provide ongoing value over an extended period of time (Abdel-Khalik, 1975; Hirschey, 1982; Hirschey and Weygandt, 1985; Hymel, 2000; Maples and Earles, 1999). When a company buys a piece of equipment, they do not typically write off the entire expense. Rather, they include its value in their overall assets and depreciate it over time. The Baucus and Camp bills essentially required companies to *capitalize* a portion of their advertising spending by figuring it as a depreciating asset in their overall portfolio. As Hymel (2000) explains, "to the extent that current advertising costs provide future benefits to a firm, and thus create intangible capital for the firm, one would expect that these costs should be capitalized under general tax principles" (415). Although one of the reasons given against capitalizing advertising expenditures is the complexity of distinguishing between current and future benefits of advertising (Maples and Earles, 1999), according to Hymel, there are a number of models for calculating these benefits that could be used to determine capitalization rates.

Hymel (2000) provides one of the most developed discussions concerning the legal aspects of the advertising deduction. As she illustrates, because of this deduction, advertising can serve as a kind of tax shelter for corporations. This encourages high rates of advertising expenditures and exacerbates the negative effects of advertising, including increased consumerism, the commercialization of childhood, and the perpetuation of gender and racial stereotypes. Contrary to the claim that advertising is a necessary business expense that should be deducted, Hymel argues that the tax deduction for advertising does not meet most standard criteria for evaluating tax policies in that advertising and the consumerism it encourages tend to exacerbate income inequality and encourage wasteful spending (358-367). John Reilly (1972) offers a similarly detailed economic critique of advertising. To the extent that it incentivizes advertising spending beyond what is necessary to sell a product, Reilly argues that the subsidizing effect of the advertising tax deduction encourages financial waste and the misallocation of company resources. Likewise, because a portion of advertising costs can be added to consumer products, advertising functions as "a very high and potentially regressive and inefficient sales tax" (288). Here, Reilly agrees with Hymel (2000) that advertising can exacerbate income inequality.

Hymel and Reilly offer insightful discussions of how the advertising deduction works to subsidize advertising itself and the advertising purchases of the companies who use it. However, in that this money predominantly goes to particular media—television networks, radio stations, newspapers, magazines, and online platforms such as Facebook—the tax deduction for advertising also serves as a kind of subsidy for the media itself. For the US media system, in which advertising revenue dwarfs direct government expenditures, the tax deduction for advertising plays an especially important role. Approaching this deduction as a tax expenditure highlights some of the consequences of this approach for media funding and the hidden public media system it encourages.

Tax expenditures, hidden budgets, and the tax status of advertising

The first tax expenditure budget was published in 1968 (US Department of Treasury, 1968), when Stanley Surrey was an Assistant Secretary of the Treasury and shortly after he had developed the tax expenditure concept (Surrey, 1973). *The Congressional Budget Act of 1974* (1974) made tax expenditures and the tax expenditure budget a permanent part of the budgetary process. As laid out in this act, tax expenditures are understood as "revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability" (299). Tax expenditures subsidize the practices for which they allow a deduction or other tax payment adjustment by decreasing an entity's overall tax liability.

The tax expenditure budget aims to quantify the government tax revenue lost by specified tax expenditures in order to compare these *indirect forms* of government spending to more formal, *direct forms* of subsidies and allocations. As Bratić (2006) explains, through the use of tax expenditures "part of the entire fiscal activity of some country may go unrecorded because it is hidden in the form of revenue deliberately or inadvertently not collected and not shown as public spending" (114). While the traditional government budgeting process encourages a more careful examination of direct government subsidies, the tax rules that Surrey identified as tax expenditures were often not closely scrutinized. As he wrote in his original tax expenditure budget, it is doubtful "that if these were direct expenditure programs we would tolerate for very long the inefficiencies" that would be revealed by analyzing them closely (US Department of Treasury, 1968: 313). Recognizing the usefulness of the tax expenditure budget, tax law expert Anthony Infanti (2004) has connected tax expenditure analysis to deconstruction and critical theory more generally. In laying out otherwise hidden elements of the Federal Budget, the tax expenditure budget creates opportunities for critical reflection and intervention.

Surrey believed that the indirect form through which tax expenditures distribute money creates a hidden subsidy system that often runs counter to our typical understanding of the purposes of taxation. For instance, in his book on tax expenditures and tax reform, Surrey (1973) argues that there is an "inevitable upside-down quality that any tax expenditure phrased as a deduction has under a progressive income tax" (22). Deduction-based tax expenditures invert the way we typically think about supporting various practices through government funding. If we were going to propose a system of helping people buy homes, it is unlikely that we would suggest giving the most money to the wealthiest people who buy the most expensive houses. But this is what happens with the tax deduction for mortgage interest, which creates the largest tax savings for those in the highest tax brackets who are carrying the largest mortgages.

Surrey's original tax expenditure budget tracked 35 tax expenditures that were grouped into thirteen general categories (US Department of Treasury, 1968). As of 2019, the Department of Treasury's tax expenditure budget has expanded to include information on 165 specific tax expenditures across 16 different categories (US Department of Treasury, 2019). In the same year, the Joint Committee on Taxation (JCT) (2019) tracked 205 different tax expenditures—up from 59 in their original tax expenditure budget (Committee on Ways and Means, 1972).

The increased number of tax expenditures reflects a broadening of the tax expenditure category as well as growth in the tax measures that qualify as such. These changes, along with the discrepancy between the tax expenditures identified by the Treasury Department and the JCT, also illustrate the complexity of—and, often, disagreement over—what qualifies as a tax expenditure. The original tax expenditure report admitted that which tax provisions were included and excluded was "to some extent arbitrary and some may prefer to add items that we have omitted or to omit items that we have included" (US Department of Treasury, 1968: 329-330). Those items identified as tax expenditures have typically been seen as "departures from the normal tax structure, designed to favor a particular industry, activity, or class of persons" (Surrey and McDaniel, 1978: 228).

However, as Altshuler and Dietz (2011) maintain, deciding whether a component of the tax structure “is ‘normal’ is an open question and almost certainly a normative exercise” (460). Whether given components of the tax code are simply normal practices for determining income or special provisions qualifiable as tax expenditures has been the subject of substantial debate and disagreement.[1] Recognizing these difficulties, tax expenditure proponent Daniel Shaviro (2003) has suggested that “tax expenditure analysis ought to be more flexible and varied in its groupings than it is in the Surrey tradition” (188), offering support for an approach that would open up space for additional tax expenditures to be considered.

The tax deduction for advertising, which was not included in the original tax expenditure budget and is still not considered a tax expenditure, illustrates the problem of the current understanding of the “normal” tax structure within much tax expenditure analysis. Fleming and Peroni (2010) presumably agree that the advertising deduction is within the normal tax structure and therefore does not qualify as a tax expenditure. They write that a deduction for business expenses “is not a tax expenditure, even though it benefits taxpayers by reducing their taxable income, because the deduction is a normative element in the definition of the base of a net income tax” (142). In contrast, Goldwein, Stone and Rosenberg (2013) recognize that the advertising deduction has a special status, even as they are not prepared to identify it as a tax expenditure. Instead, they list this deduction in a discussion of what they term “non-tax expenditure base provisions” [NTEBPs], which they describe as elements of the tax code that have a subsidizing function, but “do not represent a clear divergence from a ‘clean’ tax code” (1). In addition to the fact that NTEBPs do not have the legal authority of tax expenditures, the insistence that deductions for advertising spending are “normal” and “clean” ignores the broader history of this deduction as well as its place within the context of American media policy.

As the history recounted here demonstrates, the idea of advertising spending as a necessary and ordinary business expense was not self-evident when the United States’ Federal income tax was first introduced. In a 1917 debate over a House resolution that would have taxed advertising in support of the war, E. Allen Frost, a representative of the Outdoor Advertising Association, explicitly argued that advertising should not be taxed because it was “not a trade necessity.” Rather, he claimed that “since advertising is the subject of private contract a man can use it or not use it as he pleases” (*Revenue to Defray War Expenses: Hearings and Briefs before the Committee on Finance*, 1917: 209). That even early advertisers did not assume that advertising was necessary for a business to succeed raises questions about its presumed normal status and may explain the early confusion over whether advertising spending qualified as a deduction. McChesney’s (1993, 1999) history of 20th century American media further challenges the normative status of advertising. Although the United States eventually put in place a commercial, advertising-supported media system, during the 1920s and 1930s the value of such a system was the subject of great disagreement. As Pickard (2015) has further detailed, these debates continued even as advertising had become a largely taken-for-granted aspect of the American media system.

Attempts to eliminate or modify the advertising deduction, including the recent Baucus and Camp bills, raise additional questions about its status as a normal component of income taxation and about whether its current form is the normative format it should take. As discussed previously, the attempt by the Baucus and Camp bills to require that advertising spending be amortized over a period of time connects closely with accounting debates as to whether advertising is an asset or an expense. As Baker (1994) has written, the “tax treatment of advertising as entirely a current business expense rather than a depreciable investment in good will causes the current tax system to provide a large 'special' subsidy for advertising" (188). That current tax law frames the answer to the question of whether advertising is an asset or an expense in the way most beneficial to those buying advertising suggests that the advertising deduction really is "special" or "preferential" as defined in tax expenditure policy.

This view is further supported by a comparison between the advertising deduction and two other deductions that *are* included as tax expenditures by the US Treasury: the charitable contributions deduction and the deduction for research and development spending. The deduction for charitable contributions was put in place as part of the *War Income Tax Revenue Act of 1917* (Lindsey, 2002). Currently, the amount an individual tax payer can deduct under this provision cannot exceed 60% of their adjusted gross income, but that percentage can be smaller depending on the kind of property donated as well as the type of organization to which a contribution is made (Internal Revenue Service, 2020). The fact that there are no similar limits on the tax deduction for advertising further highlights its special nature as a deduction. From the standpoint of current legislation and tax expenditure policy, giving money to charity is a kind of subsidy outside normal income taxes, whereas spending money on advertising is simply a regular, clean business practice.

The deduction for research and development has even greater similarities with the advertising deduction. When a company spends money on research and development, they do so with a vision towards future payoffs. As a result, such spending, like advertising, occupies a complex position between an expense and an asset (Dukes, Dyckman, and Elliott, 1980; Hirschey and Weygandt, 1985; Natbony, 1987; Nix and Nix, 1992). The fact that research and development expenses are considered a tax expenditure illustrates that this deduction is recognized as incentivizing and subsidizing forms of future-oriented research. As a further recognition of the complex status of research and development spending, beginning in 2022 American companies will be forced to amortize their research and development deduction expenses over five years—just the kind of plan that Baucus had proposed for advertising deductions ("Tax Cuts and Jobs Act," 2017). The tax deduction for advertising remains in a special position both in terms of its lack of limits and its tax-friendly accounting methods.

Taken as a whole, it is clear that the tax deduction for advertising has been envisioned not merely as part of a company's base income, but as a subsidy that sustains the broader objectives of supporting business practices and funding the commercial media. Advertisers and media producers are themselves explicit about this. In expressing their objections to the Baucus bill, the American Advertising Association claimed that if passed, the bill's reductions of the advertising tax deduction would "reduce ad sales by as much as $446 billion each year and place 1.7 million U.S. jobs at risk" ("AAF Says Congress Considering 'Draconian' Changes in Tax Code," 2013: 3). The National Association of Broadcasters offered a similar argument against the bill, calling the tax deduction for advertising "an engine for economic growth and job creation in businesses and communities across America" ("Broadcast," 2013). If the advertising deduction is truly sustaining this kind of economic activity, then it would certainly seem to qualify as an important subsidy for the advertising and media industries. As such, it should qualify as a tax expenditure.

The advertising deduction's budgetary impact

The most straightforward and most frequently used method for calculating tax expenditure values is the "revenue forgone method" (Brixi, Valenduc and Swift, 2003; Carasso and Steuerle, 2003). In this approach, "the cost of a tax allowance considered as tax expenditure will be the product of the total deduction and the marginal tax rate" (Brixi et al., 2003: 7). Amazon spent $8.2 billion on advertising and marketing expenses in 2018 (Amazon, 2019). Assuming Amazon claimed all of these expenses as a deduction and that it paid the corporate tax rate of 21%, this deduction would have reduced the company's tax liability by $1.72 billion ($8.2 billion x .21). The total value of the tax expenditure for advertising purchased by corporations would be the sum of all deducted advertising expenses multiplied by 21%. In the typical revenue forgone method, values of individual tax expenditures are calculated as if every other tax expenditure were kept in place and without attention to behavioral changes that the elimination of a tax expenditure might produce (US Department of Treasury, 2019). In practice, if the tax deduction for advertising were eliminated, Amazon would likely find other ways to reduce its tax liability and eliminating multiple tax expenditures would have varying and multiplying effects. As a result, eliminating a given tax expenditure will not necessarily raise the tax revenue that is withheld via the deduction. Given these sorts of challenges, tax expenditure measurements are "rough barometers" (Burman, 2003: 614) for understanding how a given tax policy fits with the larger Federal budget.

The $218 billion spent on US advertising in 2018 occurred across seven forms of media: internet, television, radio, newspaper, magazine, outdoor (e.g., billboards and posters), and cinema ("Leading National Advertisers 2019 Fact Book," 2019: 18). This is only one portion of what companies are likely claiming as an advertising deduction, since this does not include more general marketing expenses, which can also be deducted. According to *Advertising Age*, the total money spent on major media advertising and marketing for 2018 was $461.6 billion ("Leading National Advertisers 2019 Fact Book," 2019: 18). All of this money could be figured as a tax expenditure in the sense that the deduction of these expenses serves to subsidize the advertising and marketing industries as a whole. Because I am interested in how this deduction serves as a *media subsidy* my analysis here focuses only on advertising spending, which indirectly delivers this money to media outlets. Amazon's US advertising spending was $4.47 billion in 2018 ("Leading National Advertisers 2019 Fact Book," 2019: 5), so the amount of deducted tax money that it helped distribute to commercial media outlets would be $938.7 million (see Table 1 for Amazon's advertising spending relative to other top spenders). For similar reasons, outdoor advertising, which accounted for $9.6 billion of total advertising spending in 2018 is not included in my calculations of how advertising deductions fund the hidden media system. Billboards do not appear in, or support, specific media outlets in the manner that magazine, television, or Facebook advertisements do. Consequently, they cannot be categorized as media subsidies in the same way as the expenditures I consider.

If major media in the US (excluding outdoor advertising) received $208.4 billion in 2018, and 77% [2] of that came from American companies subject to the Federal corporate income tax, the total value of advertising spending available for deduction would be $160.47 billion. At a federal corporate tax rate of 21%, this would amount to a Federal income tax reduction of $33.7 billion. To the extent that this figure is comparable to those tax expenditures currently tracked by the Treasury, the advertising deduction—limited just to that tax money diverted to the media—would rank among the top 15 Federal tax expenditures (US Department of Treasury, 2019) (see Table 2). Put plainly, in 2018 $33.7 billion dollars of commercial media spending was financed by taxpayers in the form of reduced overall Federal tax income. This is nearly 20 times the amount of tax revenue lost through the deduction of student loan interest—a deduction that *is* considered a tax expenditure (US Department of Treasury, 2019).

In the context of broader media spending, it is evident that the advertising deduction has the same "upside-down" character as others that are identified as tax expenditures. As one of the largest current sellers of advertising, Facebook is also a chief beneficiary of media revenues subsidized by the advertising deduction. In 2018, Facebook made $55.8 billion through ads placed with its services and made available on people's computers or mobile devices (Facebook, 2020). If 77% of those advertisements were placed by American corporations subject to the Federal corporate tax, this revenue would include $9 billion in indirect subsidies. In 2018, Fox News, one of the largest sellers of advertising in American cable television, took in $1.09 billion in advertising revenue (Battaglia, 2019) and likely benefited from $176.3 million in indirect subsidies. The more advertising revenue a media outlet draws, the more they benefit from the money made available from the advertising deduction.

The fact that media companies can both receive advertising revenue for advertising purchased within their platforms and purchase advertising for display on others' platforms complicates and exacerbates the impact of the tax deduction for advertising. In addition to benefiting from the tax deduction for advertising as a subsidy within their own advertising revenue, Facebook also spent $475 million to advertise their own products and services in other US media platforms, which would allow them their own tax deduction of $99.8 million at the Federal corporate tax rate of 21%. In fact, the majority of the top ten purchasers of advertising in 2018 maintained some platform that generates significant advertising revenue (see Table 1). In that year, Comcast, which spent the most money on advertising—$6.1 billion—also earned $2.8 billion in advertising revenue (Comcast, 2019). Thus, at the same time as they would have been able to lower their own tax bill by $1.3 billion through deducting their own US advertising spending, their advertising income would have included $453 million in indirect government subsidies based on the deductions made by those who purchased advertising from them.[3] Commercial media benefit in multiple ways from the tax deduction for advertising and they do so in proportion to the amount of money they are already making and spending.

The upside-down nature of the subsidizing aspects of the advertising deduction is further evidenced when compared against the country's other government media spending. As compared to the $33.7 billion dollars in tax-related indirect subsidies available to the commercial media, in 2018 the direct government subsidy available to the Corporation for Public Broadcast was $445 million (Tayman, 2017). If we think of these two figures as a kind of combined government media outlay, the CPB's portion is 1.3%. During the same year, the UK, which has its own tax deduction for advertising, saw £23.6 billion ($29.52 billion) in advertising spending (The Advertising Association/WARC Expenditure Report, 2019). At the UK corporate tax rate of 19%, this would amount to an indirect subsidy of £4.48 billion ($5.59 billion). In addition to the stark contrast in advertising spending,[4] the 2018 BBC subsidy, which comes in the form of a license fee, was £3.7 billion ($4.20 billion) (British Broadcasting Corporation, March 2018)—nearly ten times that of the CPB. In the same way that we can calculate the US government funded media outlay as a combination of the direct subsidy to the CPB and the indirect subsidy provided by the US tax deduction for advertising, we can figure the UK's government media outlay by adding their direct BBC subsidy and the indirect subsidy provided by their own tax deduction for advertising. Here, the BBC subsidy amounts to nearly half (45%) of this combination of direct and indirect funding. In the US, the hidden public media—those commercially supported media that benefit from the tax deduction for advertising—receive exponentially greater government support than do the so-called public media.

The comparison between the US and the UK illustrates an important feature of tax expenditures in general. Tax expenditures, like the tax code more generally, are not uniform across countries, even as a number of countries have adopted the principle of the tax expenditure budget and such organizations as the World Bank are increasingly urging developing countries to take up the concept as a way to better monitor their government spending (Brixi, Valenduc, and Swift, 2003). Neither the US nor the UK currently monitors their own tax deduction for advertising as a tax expenditure. While both could and likely should do so, the extent of advertising spending within the US combined with the country's relatively low amount of government funding for the media greatly exacerbates the upside-down aspects of this subsidizing deduction (see Figure 1). McIntyre (1980) has argued for abandoning the strictly defined tax expenditure list model of the Department of Treasury in favor of a more contextual definition based on how different potential tax expenditures are used and understood. Such an approach would be more dynamic and time and location specific, "since a definition tied to use obviously must change if the use changes" (86). The way the tax deduction for advertising currently functions within the US context warrants the special attention that would come with understanding it as a tax expenditure.

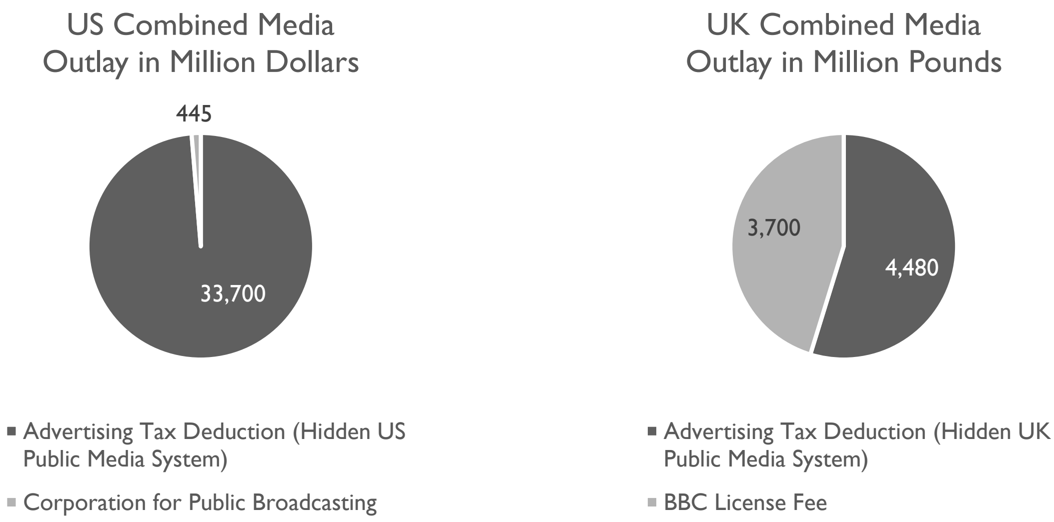
Table 1. Top 10 US national advertisers, and their presumed tax deduction (2018). ("Leading National Advertisers 2019 Fact Book," 2019).

Company	Advertising spending (in millions)	Estimated tax deduction at 21% corporate tax rate (in millions)
1. Comcast Corp.	$6,122	$1285.62
2. AT&T	$5,362	$1126.02
3. Amazon	$4,470	$938.7
4. Procter & Gamble Co.	$4,305	$904.05
5. General Motors Co.	$3,139	$659.19
6. Walt Disney Co.	$3,132	$657.72
7. Charter Communications	$3,042	$638.82
8. Alphabet (Google)	$2,960	$621.6
9. American Express Co.	$2,798	$587.58
10. Verizon Communications	$2,682	$563.22

Table 2. Top 15 US tax expenditures (millions of dollars) (US Department of Treasury, October 7, 2019).

1. Exclusion of employer contributions for medical insurance premiums	214,420
2. Exclusion of net imputed rental income	125,990
3. Defined contribution employer plans	104,920
4. Capital gains (except agriculture, timber, iron ore, and coal)	83,520
5. Deductibility of charitable contributions, other than education and health	75,770
6. Defined benefit employer plans	73,831
7. Social Security benefits for retired and disabled workers and spouses,	53,132
8. Child credit	51,750
9. Capital gains exclusion on home sales	45,750
10. Exclusion of interest on bonds for private nonprofit educational facilities	43,460
11. Reduced tax rate on active income of controlled	40,000
12. Deductibility of mortgage interest on owner-occupied homes	39,540
13. Deductibility of nonbusiness State and local taxes other than	31,530
14. Treatment of qualified dividends	30,900
15. Step-up basis of capital gains at death	27,090

Figure 3. Comparing US and UK advertising and media spending (2018).



Conclusion

The advertising deduction effectively diverts large sums of public money into an upside-down media system in which those who need that money the least benefit from it the most. Viewing this deduction as a tax expenditure offers one way of highlighting these effects and placing them within the larger context of the Federal tax and media budgets. If the US Treasury were to formally identify this deduction as a tax expenditure—as I believe it should—these effects could be more systematically tracked and more clearly situated within the tax expenditure budget. This would force an annual accounting of the country's hidden public media system and open that system up to further investigation and critique.

Identifying the advertising deduction as a tax expenditure would certainly be an important step in addressing the problematic media system in which it operates, but other actions would be necessary to ensure reform. One option would be eliminating the tax deduction for advertising as Hymel (2000) advocates, though it could also be adjusted in the ways that Baucus and Camp proposed. As mentioned previously, it is difficult to predict the precise revenue gain from eliminating a tax deduction, given that it can be difficult to know how taxpayers' behaviors might be altered by the tax policy change. However, in an earlier proposal to limit the tax deduction for advertising, then Assistant Secretary of the Treasury Lawrence Summers (1987) suggested that "requiring companies to amortize 60 percent of their advertising outlays over four years while deducting 40 percent right away, would raise $10 billion a year" (15). In any case, the public money saved by its elimination or adjustment would need to be turned into a more direct government subsidy in order to offset the years of hidden public investment that the advertising deduction has already provided to the commercial media.

This concern for reformulating tax expenditures as direct subsidies highlights another problem that Surrey notes with tax expenditures. The direct government subsidies that tax expenditures mirror are typically administered through the appropriate congressional or senatorial committees. Such committees typically include experts in the topic area who are familiar with the larger government resources and goals pertaining to particular programs. In contrast, tax legislation moves through the Senate Finance Committee and the House Ways and Means Committee where legislators and their staff "would normally not consider the substantive areas involved in most tax incentive programs." As a result, tax expenditures "suddenly charge [these committees] with acting on substantive matters outside their fields of responsibility simply because the programs use the tax system" (Surrey, 1973: 142). It is likely that those administering the tax deduction for advertising—and even those like Baucus and Camp who have tried to change it—are not considering the upside-down nature of the country's hidden public media system. Reasonably administered direct expenditures could rectify problems in the current dispersal system by making sure that tax money goes to media outlets that are most in need of funding—including, and especially, non-commercial ones.

Finally, an advertising tax of the sort recommended by Taylor and others and implemented in the past would also address inequities in current tax funding for the media. But doing so without a simultaneous attention to the tax deduction for advertising could offset the gains such a tax would promise. Such a tax should also recognize the variety of media outlets that depend upon advertising money. If this revenue is not replaced with public subsidies, another upside-down system could emerge in which those most able to pay a tax could push out those with less money. On this matter, advocates for a tax on advertising could learn from earlier versions of such a tax, including those within the US, that exempted companies with advertising revenues below a certain threshold. Similarly, Reilly (1972) suggests a "marginal progressive tax rate on advertising expenditure" as a way to ensure that such a tax affects those who disproportionately benefit from advertising spending.

Thinking of advertising as a tax expenditure highlights the multiple ways that citizens in the US—and other countries—pay for the advertising within the media. As Reilly observed nearly 50 years ago, advertising is often built into the cost of products, so we likely pay for a portion of advertising when we buy advertised goods. As Dallas Smythe (1951) demonstrated with his analysis of television viewing, we also pay for advertising in terms of the time we must devote to watching, reading, or even trying to avoid it within the media we engage with. Because advertising spending allows companies to influence what gets into the media, citizens also pay in terms of limitations on the media content available to them. A magazine containing makeup advertisements, for example, will never include an article on the animal testing of cosmetics. Finally, as illustrated by the tax deduction for advertising, we also pay in terms of reduced tax revenue and thus the reduced public money available for other sorts of government spending. A government subsidy, whether direct or indirect, is really a payment of money provided by the governed.

However we proceed, the tools of tax expenditure analysis allow us to understand how these divergent forms of funding have created a hidden public system within our current media structure. Identifying and tracking advertising as a tax expenditure would be an important step towards reforming our media system. Identifying advertising in this manner, and taking the steps such an analysis would suggest, will likely face significant push back from the advertising and media industries. But given the past bipartisan support for rethinking the tax deduction for advertising, this is a pragmatic first step that could set the groundwork for important future changes.

Author bio

Brenton J. Malin is the author of *American Masculinity under Clinton: Popular Media and the Nineties "Crisis of Masculinity"* and *Feeling Mediated: A History of Media and Technology in America*. His essays have appeared in such journals as *Media Culture and Society*, *Journal of Social History*, *Communication Theory*, *Technology and Culture*, and *New Media and Society*.

Endnotes

[1] For criticisms of how tax expenditure analysis figures income, as well as of the tax expenditure concept more broadly, see Bittker (1969a, 1969b, 1972), Kahn (1979), and Kahn and Lehman (1992). For a response to these sorts of arguments see Surrey and Hellmuth (1969) and Burman (2003).

[2] This is an estimate based on the percentage of American spending among the top 200 advertisers within the US media based on the data provided by *Ad Age* ("Leading National Advertisers 2019 Fact Book," 2019). Although here and throughout we should be wary of relying on trade industry information, since advertising is not a tax expenditure, there is little reason for the industry to modify their reports in ways that would impact the analysis here—e.g., by downplaying their spending so as to minimize their tax impact. Still, the available data would be stronger if advertising were being tracked as a tax expenditure by the Department of Treasury, who have access to the actual tax records of the companies benefitting from this deduction. For instance, this analysis would benefit from a mechanism for distinguishing between advertising money spent by corporations subject to the Federal Corporate Tax rate and advertising purchased by individuals and other entities being taxed at different rates.

[3] $2.8 billion x .77 (based on assumed percentage of American spending within that revenue) x .21 (assuming a claimed deduction based on the current corporate tax rate).

[4] UK advertising spending was .2% of the country's GNI in 2018, whereas US advertising spending was more than five times that at 1.1%.

References

AAF Says Congress Considering 'Draconian' Changes in Tax Code (November 11, 2013) *Advertising Age* 3.

Abdel-Khalik AR (1975) Advertising effectiveness and accounting policy. *The Accounting Review* 50(4): 657-670.

Advertising Tax Act, H.R. 10720, 76th Cong., 3rd Sess (December 9, 1940).

Altshuler R and Dietz R (2011) Reconsidering tax expenditure estimation. *National Tax Journal* 64(2): 459-490.

Amazon (2019, February 1) *US Security and Exchange Commission Form 10-K*. Available at: https://bit.ly/2YgiYYP

Baker CE (1994) *Advertising and a Democratic Press.* Princeton, NJ: Princeton University Press.

Battaglia, S (2019, March 13) Fox News courts advertisers after brands flee Tucker Carlson and Lara Ingraham. *Los Angeles Times*.

Bill R (1941, January 15) Comment. *Sales Management*, 90.

Bittker BI (1969a) Accounting for federal "tax subsidies" in the national budget. *National Tax Journal* 22(2): 244-261.

Bittker BI (1969b) The tax expenditure budget a reply to professors Surrey & Hellmuth. *National Tax Journal* 22(4): 538-542.

Bittker BI (1972) Income tax loopholes and political rhetoric. *Michigan Law Review* 71: 1099-1128.

Black HC (1915) *A Treatise on the Law of Income Taxation under Federal and State Laws*, 2nd edn. Kansas City, MO: Vernon Law Book Company.

Bratić V (2006) Tax expenditures: a theoretical review. *Financial Theory and Practice* 30(2): 113-127.

British Broadcasting Corporation (2018, March) *BBC Annual Plan 2018/19*. Available at: https://bbc.in/2yODVjd

Brixi HP, Valenduc, CM and Swift, ZL (2003) *Tax Expenditures—Shedding Light on Government Spending through the Tax System: Lessons from Developed and Transition Economies*. Washington, DC: The World Bank.

Broadcast (2013, November 25) *Communications Daily*.

Burman LE (2003) Is the tax expenditure concept still relevant? *National Tax Journal*, 613-627.

Carasso A and Steuerle E (2003) Tax expenditures: revenue loss versus outlay equivalents. *Tax Notes* 7: 287.

Comcast (2019, January 23) Comcast reports 4th quarter and full year 2018 results. Available at: https://www.cmcsa.com/node/32411/pdf

Committee on Ways and Means (1972, October 4) *Estimates of Federal Tax Expenditures* (JCS-28-72). Washington, DC: US Government Printing Office.

Congressional Budget Act of 1974, 88 Stat. 297, 93rd Congress (1974).

Cui W (Forthcoming) The digital services tax: a conceptual defense. *Tax Law Review*.

Dukes RE, Dyckman TR and Elliott, JA (1980) Accounting for research and development costs: the impact on research and development expenditures. *Journal of Accounting Research*: 1-26.

Facebook (January 30, 2020) *US Security and Exchange Commission Form 10-K*. Available at: https://bit.ly/2VI2ffA

Fleming Jr JC and Peroni, RJ (2010) Can tax expenditure analysis be divorced from a normative tax base: a critique of the new paradigm and its denouement. *Virginia Tax Review* 30: 135-180.

Fuchs C (2018) *The Online Advertising Tax as the Foundation of a Public Service Internet: A CAMRI Extended Policy Report*. London: University of Westminster Press.

Goldwein M, Stone J and Rosenberg A (2013, July 15) Beyond tax expenditures. *Tax Notes*: 1-7.

Hearings Before the Committee on Ways and Means, House of Representatives, on the Proposed Revenue Act of 1918 (1918) (Vol. 1). Washington: Government Printing Office.

Hirschey M (1982) Intangible capital aspects of advertising and R & D expenditures. *The Journal of Industrial Economics*: 375-390.

Hirschey M and Weygandt JJ (1985) Amortization policy for advertising and research and development expenditures. *Journal of Accounting Research* 23(1): 326-335.

Howard, C (1997) *The Hidden Welfare state: Tax Expenditures and Social Policy in the United States*. Princeton, NJ: Princeton University Press.

Hymel ML (2000) Consumerism, advertising, and the role of tax policy. *Virginia Tax Review* 20: 347-466.

Infanti A (2004) A tax crit identity crisis-or tax expenditure analysis: deconstruction, and the rethinking of a collective identity. *Whittier Law Review* 26: 487-599.

Internal Revenue Service (2020, March 20) *Charitable Contributions*. Publication 526: Cat. No. 15050A.

Joint Committee on Taxation (2019, December 18) *Estimates of Federal Tax Expenditures for Fiscal Years 2019-2023* (JCX-55-19).

Joint Committee on Taxation (2013, November 21) *Technical Explanation of the Senate Committee on Finance Chairman's Staff Discussion Draft to Reform Certain Business Provisions* (JCX-19-13).

Kahn DA (1979) Accelerated depreciation—tax expenditure or proper allowance for measuring net income? *Michigan Law Review* 78: 1-58.

Kahn DA and Lehman JS (1992) Tax expenditure budgets: a critical view. *Tax Notes*: 1661-1665.

Karr T and Aaron C (2019) *Beyond Fixing Facebook*. Washington DC, Free Press.

Kofler G and Sinnig J (2019) Equalization taxes and the EU's 'digital services tax'. *Intertax* 47: 176-200.

Leading National Advertisers 2019 Fact Book (2019, June 24) *Advertising Age*.

Lindsey VW (2002) The charitable contribution deduction: A historical review and a look to the future. *Nebraska Law Review* 81: 1056-1096.

Maples L and Earles M (1999) When should advertising be capitalized? *Journal of Accountancy* 187(5): 49-54.

Mayer V (2017) *Almost Hollywood, Nearly New Orleans: The Lure of the Local Film Economy*. Oakland, CA: University of California Press.

McChesney R (1993) *Telecommunications, Mass Media, and Democracy: The Battle for the Control of U.S. Broadcasting, 1928-1935*. New York: Oxford University Press.

McChesney R (1999) *Rich Media, Poor Democracy: Communication Politics in Dubious Times*. Urbana: University of Illinois Press.

Montgomery RH (1917) *Income Tax Procedure*. New York: Ronald Press.

Natbony W (1987) The tax incentives for research and development: An analysis and a proposal. *Georgetown Law Journal* 76: 347-416.

Nix PE and Nix DE (1992) A historical review of the accounting treatment of research and development costs. *Accounting Historians Journal* 19(1): 51-78.

Pickard VW (2015) *America's Battle for Media Democracy: The Triumph of Corporate Libertarianism and the Future of Media Reform*. New York: Cambridge University Press.

Reilly JH (1972) A welfare critique of advertising. *American Journal of Economics and Sociology* 31(3): 283-293.

Revenue Act of 1862, 37th Cong. 2d sess (1862, April 2).

Revenue to Defray War Expenses: Hearings and Briefs before the Committee on Finance (1917) Washington: Government Printing Office.

Shaviro D (2003) Rethinking tax expenditures and fiscal language. *Tax Law Review* 57: 187-231.

Smythe DW (1951) The consumer's stake in radio and television. *The Quarterly of Film, Radio, and Television* 6: 109-128.

Summers L (1987, November 30) A few good taxes. *New Republic.* 14-16.

Surrey SS (1973) *Pathways to Tax Reform: The Concept of Tax Expenditures*. Cambridge, MA: Harvard University Press.

Surrey SS and Hellmuth WF (1969) The tax expenditure budget response to Professor Bittker. *National Tax Journal* 22(4): 528-537.

Surrey SS and McDaniel PR (1978) The tax expenditure concept: current developments and emerging issues. *Boston College Law Review* 20: 225-369.

Tax Cuts and Jobs Act, H.R. 1, 131 Stat. 2054, 115th Congress (2017, December 22).

Tax Reform Act of 2014, H.R. 1, 113th Congress, 2d sess (2014).

Taylor, A (2014) *The people's platform: Taking back power and culture in the digital age*. New York: Metropolitan Books.

Tayman, WP (September 25, 2017) *Proposed FY 2018 Operating Budget*. Corporation for Public Broadcasting. Available at: https://bit.ly/3aFKbqE

The Advertising Association/WARC Expenditure Report (2019, April 30) 2018 UK advertising spend hits £23.6bn following nine years of growth [Press release]. Available at: https://bit.ly/2WbkngT

Tully S (2014, April 4) A really bad idea: Attacking the tax deduction on ads. *Fortune*. Available at: https://fortune.com/2014/04/04/a-really-bad-idea-attacking-the-tax-deduction-on-ads/

US Department of Treasury (1968) *Annual Report of the Secretary of the Treasury on the State of the Finances*. Washington, DC: US Government Printing Office.

US Department of Treasury (October 7, 2019) *Tax Expenditures*. Available at: https://www.treasury.gov/resource-center/tax-policy/Documents/Tax-Expenditures-FY2019.pdf

Will advertising be taxed in the New Revenue Bill? (1918, July 11) *Printer's Ink*: 19-20.