The biggest mistake in tax reform is the label itself. Saying that one is in favor of tax reform is about as informative as saying that one is in favor of expenditure reform. Everyone has items on both sides of the budget they would like to change. They just don’t always agree on what those items are. Despite this murk, I suggest that there is a consensus base on which fundamental reform can and should rest — the type of foundational base on which any tax system itself should rest and, by the way, the base on which reform in 1986 reform proceeded. That base is nothing more or less than developing, first, reform options that adhere to basic principles of taxation and, second, a legislative process that gives them heed.

What are these basic principles? They start with the queen of principles: equal justice or equal treatment of equals. What that means in practical terms is that any form of discrimination must be assumed to be wrong except where there is a solid, very solid, basis for such discrimination. The burden of proof, in effect, always remains with the advocates for discrimination. Taxation according to ability to pay is a principle that does allow some discrimination: just as in a family, children are not expected to contribute equally to the household’s fortune, so in a tax system, those with no ability to pay taxes cannot be expected to pay net taxes. But it must be balanced against the individual equity principle that emphasizes the right of individuals to the returns from their own work. Another principle is efficiency, which has several branches. One branch leads to conclusions similar to those that derive from equal justice: forms of discrimination among different items of income or consumption are often inefficient, not just unfair. A tax system further should be simple, avoid waste, and be enforceable. Still another principle receiving more attention in the modern period is that a tax system should be noncorruptible. A tax system and the tax legislative process should not invite abuse, whether legal or illegal, whether in encouraging cheating or simply the buying of officials.

Now it is true that balance must be obtained among the principles. But many, many proposals and laws represent no balance at all among principles. So we must be careful to distinguish between reasonable and unreasonable compromises. The most contentious debates relate closely to issues of degree, either of size of government or progressivity. Thus, efficiency considerations (which can include concerns over growth) might lead some to favor supply side or Keynesian stimulus to boost the economy, while others might conclude that deficits unfairly and inefficiently shift revenue costs onto future generations. Ability to pay considerations lead some to favor more progressivity, while individual liberty considerations make others want to limit the tax rates that can be assessed. Only the political process can ultimately decide such issues when there is a range of “reasonable” compromises, as when basic principles by themselves do not really tell us how stimulative, progressive, or revenue-raising a tax system should be. Still, none of these debates represents an excuse for abandoning other principles. All other things being equal — for instance, given a government of any size and progressivity, efficiency, simplicity, and non-corruptibility are still of value in and of themselves.

Because they are so contentious, once on the agenda, debates over degree or size of stimulus, progressivity, or revenues tend to dominate so much that other principles can be needlessly and carelessly neglected. A number of inefficient and complex giveaways, for instance, are often included in tax cuts, regardless of whether the cutting might be justified by macro-economic or budgetary considerations. One of the reasons the 1986 reform was able to succeed, at least to the extent that it did, was that it did not disdain those contentious and dominating issues of degree and size, it just put them to the side for awhile as a way to try to force focus on other core principles.

My suggestion is simple. Core principles that are of value in and of themselves must be given their due. Sometimes they can be addressed without major debates over degree and size, as was the model in 1986. At other points, these vital issues of adequacy of revenues, size of government, degree of progressivity cannot be ignored either for economic or political reasons and must also be tackled. But whatever the public’s choices on those fronts, the tax laws that result still should be developed in a way that is as efficient, simple, and noncorrupting as possible.

If we adhered to core principles in designing a reform, it would entail — just as was done in 1986 — going through almost every item in the tax code to determine its merit according to basic principles. It would require examining the worth of hundreds of tax programs, putting into practice recent budgetary efforts (and congressional mandates) to assess the effectiveness and outcomes of all programs on the tax or expenditure side of the budget. It would require discarding many items of insufficiently proven merit. It would require a different type of IRS, one that provided data on each of the outcomes of all programs on the tax or expenditure side of the budget. Everyone has items on both sides of the budget. It would require fundamental reform of the tax legislative process — not only restoring but enhancing the power of those whose job it is to provide the architectural and building system advice, whether in the Treasury or in congressional agencies like the Joint Committee on Taxation. To some extent it would require budgetary and procedural rules that insured support for nonpartisan and bipartisan staffs, and much greater time devoted to true nonpartisan examination of issues. And it would find ways to hold elected officials accountable as individuals, not just as a group. For instance, those elected officials who advocate special interest provisions need to be clearly identified, while the chairs of the tax-writing committees and the Treasury secretary need
to be held responsible for the tax legislative process and for protecting their turfs against the onslaught of special interests both from outside and inside of government.

The opponents of this approach to reform are many. Primarily, however, the opponents are those with specific agenda items for which they are willing to sacrifice core principles. Since there is, never will, and never should be complete agreement on what government should do on so many issues, the attack on core principles and the willingness to sacrifice them can never be assumed to go away.

Another attack is more subtle. Some claim that tax reform in 1986 was just too hard. They seem to advocate keeping all the junk in the tax code, no matter how inefficient, complex, inequitable, and corrupting — and overlay another tax on top of that system, while exempting most taxpayers from the first system. A related group seems to assert that the alternative minimum tax will somehow displace the current system, as if adding provisions like taxing dependents as tax shelters somehow removes all the other problems.

One group of reformers seems to be willing to attack the mess that is the tax code, but they condition that attack with movement along one very contentious line, such as converting the tax system into one with flat rate or consumption base or both. Again, I don’t want to discount the importance of this debate. But reform according to basic or core principles cannot be held hostage to one particular item of this type.

None of this is easy. Government today is extremely messy and corrupted — in no small part, because liberals and conservatives have largely been willing to abandon core principles in their continual battle over how to tax or not tax the rich or how to add to or subtract from existing systems of redistribution rather than reform them to do better. Not to mention how much the access given those with money has tended to reduce the access of those nonpartisan staff whose mission is to design provisions well.

Yet another issue of process must be addressed. If you examine the core principles closely, they apply equally well to the expenditure side of the budget. What has essentially happened to the tax policy process in recent decades is that it has increasingly adopted many of the bad habits of the expenditure policy process. I am not convinced any longer than one can be solved without the other, and, therefore, process reform must extend to all the budget, not just the tax system.

As a practical matter, then, what needs to be done at this point in time? I don’t think that there is any doubt that the budget is so out of balance for the long run that it will drive much of policy for a long time to come. Never before have so many promises been made for the future before that future has arrived — which means by their very nature they will violate rules of efficiency and equity, not to mention taking democratic decision-making out of the hands of the people. This is not a plea for any particular balance between the revenue raising and expenditure cutting that will take place, but for insuring that the core principles I have noted here get the attention they deserve when those tax or expenditure changes are made.

As for the tax system by itself, reform requires studying, identifying, and providing data on all the many programs in the tax system — with special pressure to remove those that are both unproven and violate norms of equal justice. In terms of coming to grips with some issues, I think a President could base one tax reform effort simply on grounds of simplification, with items identified by the ability of the IRS to administer and enforce them. Any principles-based approach, whether emphasizing simplification or not, still requires tackling issues ranging from housing to pensions to charity to work subsidies to health to education to business subsidies. Reform, therefore, requires very hard work if it is to be based on solid principles and a legislative process that gives those principles their due attention.