Statements of Fact

From the

Citizens' Truth-in-Taxation Hearing

Held February 27 and 28, 2002
Washington, DC

THE INCOME TAX IS A TAX ON LABOR, PROHIBITED BY THE 13TH AMENDMENT

1. It was the intent of Congress to require "individuals" to make income tax returns based upon receipt of more than a threshold amount of gross income even if the individual ends up not "liable for" a tax on that gross income. [*See* 26 U.S.C. 6012 (a).]

2. The "gross income" mentioned in Section 6012 of the Internal Revenue Code is the "gross income" as set forth at Section 61(a) of the Internal Revenue Code. (*See* 26 U.S.C. Sections 61(a) and 6012.)

3. Section 61(a) of the Internal Revenue Code defines "gross income" as "all income" from whatever source derived, but does not define "income." [*See* 26 U.S.C. º 61(a)]

4. In *Eisner v. Macomber*, 252 U.S. 189, 206 (1920), the United States Supreme Court held that Congress cannot by any definition it may adopt conclude what "income" is, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised. [*See Eisner v. Macomber*, 252 U.S. 189, 206 (1920)]

5. The definition of income as it appears in Section 61(a) is based upon the 16th Amendment and that the word is used in its constitutional sense. House Report No. 1337; Senate Report No. 1622; U.S. Code Cong. and Admin. News, 83rd Congress, 2nd Session, pages 4155 and 4802, respectively, 1954.

6. The United States Supreme Court has defined the term income for purposes of all income tax legislation as: The gain derived from capital, from labor or from both combined, provided it include profit gained through a sale or conversion of capital assets. [*See Stratton's Indep. v. Howbert*, 231 U.S. 399 (1913); *Doyle v. Mitchell*, 247 U.S. 179 (1920); *So. Pacific v. Lowe*, 247 U.S. 330 (1918); *Eisner v. Macomber*, 252 U.S. 189 (1920); *Merchant's Loan v. Smietanka*, 255 U.S. 509 (1921)]

7. The United States Supreme Court defined "income" to mean the following:

"…Whatever difficulty there may be about a **precise scientific definition of 'income**,' it imports, as used here, something entirely distinct from principal or capital either as a subject of taxation or as a measure of the tax; **conveying rather the idea of gain or increase arising from corporate activities**." [*See* **Doyle v. Mitchell Brothers Co.**, 247 U.S. 179, 185, 38 S.Ct. 467 (1918) (emphasis added)].

"This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax, but an **excise tax upon the conduct of business in a corporate capacity**, measuring, however, the amount of tax by the income of the corporation…**Flint v. Stone Tracy Co**., 220 U.S. 107, 55 L.Ed. 389, 31 Sup.Ct.Rep. 342, Ann. Cas."

[*See* ***Stratton's Independence v. Howbert***, 231 U.S. 399, 414, 58 L.Ed. 285, 34 Sup.Ct. 136 (1913)]

8. The term "corporation" as used above infers a federally chartered and not a state chartered corporation.

9. The United States Government is defined as a federal corporation:

United States Code
TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART VI - PARTICULAR PROCEEDINGS
CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE
SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS
Sec. 3002. Definitions
(15) **"United States" means** -
(A) **a Federal corporation**;
(B) an agency, department, commission, board, or other entity of the United States; or
(C) an instrumentality of the United States.

(*See* 26 U.S.C. 3002)

10. Individuals as defined in Subtitle A of the Internal Revenue Code and in 26 CFR §1.1441-1 are not federal corporations, and therefore cannot have "profit" or "gain" as constitutionally defined above.(*See* 26 CFR 1.1441-1)

11. In the absence of gain, there is no "income." [*See Stratton's Indep. v. Howbert*, 231 U.S. 399 (1913); *Doyle v. Mitchell*, 247 U.S. 179 (1920); *So. Pacific v. Lowe*, 247 U.S. 330 (1918); *Eisner v. Macomber*, 252 U.S. 189 (1920); *Merchant's Loan v. Smietanka*, 255 U.S. 509 (1921)]

12. There is a difference between gross receipts and gross income. (*See* Common knowledge)

13. The United States Supreme Court recognizes that one's labor constitutes property. (*See Stratton's Indep. v. Howbert*, 231 U.S. 399 (1913); *Doyle v. Mitchell*, 247 U.S. 179 (1920); *So. Pacific v. Lowe*, 247 U.S. 330 (1918); *Eisner v. Macomber*, 252 U.S. 189 (1920); *Merchant's Loan v. Smietanka*, 255 U.S. 509 (1921).) (Ex. 065, 066, 067, 054, 068.)

14. The United States Supreme Court stated in *Butchers' Union Co. v. Crescent City Co.*, 111 U.S. 746, 757 (concurring opinion of Justice Fields) (1883), that:

> It has been well said that, "The property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable."

(*See Butchers' Union Co. v. Crescent City Co.*, 111 U.S. 746, 757).

15. The United States Supreme Court recognizes that contracts of employment constitute property. [*See Stratton's Indep. v. Howbert*, 231 U.S. 399 (1913); *Doyle v. Mitchell*, 247 U.S. 179 (1920); *So. Pacific v. Lowe*, 247 U.S. 330 (1918); *Eisner v. Macomber*, 252 U.S. 189 (1920); *Merchant's Loan v. Smietanka*, 255 U.S. 509 (1921); *Butchers' Union Co. v. Crescent City Co.*, 111 U.S. 746, 757 (concurring opinion of Justice Fields) (1883)]

16. The United States Supreme Court stated in *Coppage v.*

Kansas, 236 U.S. 1, 14 (1914) that: "The principle is fundamental and vital. Included in the right of personal liberty and the right of private property--partaking of the nature of each--is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and other services are exchanged for money or other forms of property."
(*See Coppage v. Kansas* (1914), 236 U.S. 1, 14).

17. The United States Supreme Court recognizes that a contract for labor is a contract for the sale of property. [*See Stratton's Indep. v. Howbert*, 231 U.S. 399 (1913); *Doyle v. Mitchell*, 247 U.S. 179 (1920); *So. Pacific v. Lowe*, 247 U.S. 330 (1918); *Eisner v. Macomber*, 252 U.S. 189 (1920); *Merchant's Loan v. Smietanka*, 255 U.S. 509 (1921); *Butchers' Union Co. v. Crescent City Co.*, 111 U.S. 746, 757 (concurring opinion of Justice Fields) (1883).]

18. The United States Supreme Court has stated in *Adair v. United States*, 208 U.S. 161, 172 (1908) that:

> In our opinion that section, in the particular mentioned, is an invasion of the personal liberty, as well as of the right of property, guaranteed by that Amendment (5th Amendment). Such liberty and right embraces the right to make contracts for the purchase of the labor of others and equally the right to make contracts for the sale of one's own labor.

[See *Adair v. United States*, 208 U.S. 161, 172 (1908)]

19. Congress recognizes at Section 64 of the Internal Revenue Code that "ordinary income" is a gain from the sale or exchange of property. (*See* 26 U.S.C. 64.)

20. Internal Revenue Code Sections 1001, 1011 and 1012 provide the method Congress has set forth for determining the gain derived from the sale of property. (*See* 26 U.S.C. Sections 1001, 1011, and 1012.)

21. Section 1001(a) states that: "The gain from the sale or other disposition of property shall be the excess of the amount realized there from over the adjusted basis provided in section 1011 for determining gain . . . ." [*See* 26 U.S.C. º 1001(a)]

22. Section 1001(b) states that: "The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received." [*See* 26 U.S.C. 1001(b)]

23. Section 1011 states that: "The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis (determined under section 1012...), adjusted as provided in section 1016." (*See* 26 U.S.C. 1011.)

24. Section 1012 states that: "The basis of property shall be the cost of such property . . . ." (*See* 26 U.S.C. 1012.)

25. The cost of property purchased under contract is its fair market value as evidenced by the contract itself, provided neither the buyer nor seller were acting under compulsion in entering into the contract, and both were fully aware of all of the facts regarding the contract. [*See Terrance Development Co. v. C.I.R.*, 345 F.2d 933 (1965); *Bankers Trust Co. v. U.S.*, 518 F.2d 1210 (1975); *Bar L. Ranch. Inc. v. Phinney*, 426 F.2d 995 (1970); *Jack Daniel Distillery v. U.S.*, 379 F.2d 569 (1967); *In re Williams' Estate*, 256 F.2d 217 (1958)].

26. In the case of the sale of labor, none of the provisions of Section 1016 of the Internal Revenue Code are applicable. (*See* 26 U.S.C. 1016.)

27. When an employer pays the employee the amount agreed upon by their contract, there is no excess amount realized over the adjusted basis, and thus no gain under Section 1001 of the Internal Revenue Code. (*See* 26 U.S.C. 1001.)

28. If one has no gain, one would have no income in a constitutional sense. (*See* 26 U.S.C. 64) (26 U.S.C.1001)

29. If one has no income, one would have no "gross income."

30. In the absence of "gross income," one would not be required to make a return under Section 6012 of the Internal Revenue Code. (*See* 26 U.S.C. 6012.)

31. Section 6017 of the Internal Revenue Code requires individuals, other than nonresident alien individuals, to make a return if they have net earnings from self-employment of $400 or more. (*See* 26 U.S.C. 6017.)

32. The term "net earnings from self-employment" is defined at Section 1402(a) of the Internal Revenue Code as follows:

> "The term 'net earnings from self-employment' means the gross income derived by an individual from any trade or business carried on by such individual . . . ."

[*See* 26 U.S.C. 1402(a)]

33. In the absence of "gross income," one would not have more than $400 of "net earnings from self-employment." [*See* 26 U.S.C. º 1402(a)]

34. The "taxable income" upon which the income tax is imposed in Section 1 of the Internal Revenue Code is defined at Section 63 of the Internal Revenue Code. (*See* 26 U.S.C. Sections 1 and 63.)

35. The term "taxable income" is defined differently for those who itemize deductions and those who don't itemize deductions. (*See* Questions 153 and 154 below)

36. For those who do itemize deductions, the term "taxable income" means "gross income" minus the deductions allowed by Chapter 1 of the Internal Revenue Code, other than the standard deduction. (Common knowledge).

37. For those who do not itemize deductions, the term "taxable income" means "adjusted gross income" minus the standard deduction and the deduction or personal exemptions provided in section 151 of the Internal Revenue Code. (*See* 26 U.S.C. 151.) (Ex. 089)

38. For individuals, the term "adjusted gross income" means gross income minus certain deductions. (Common knowledge)

39. In the absence of "gross income" an individual would have no "adjusted gross income" and no "taxable income." (Common knowledge)

40. In the absence of taxable income, no tax is imposed under Section 1 of the Internal Revenue Code. (*See* 26 U.S.C. 1.)

41. Employment taxes are contained in Subtitle C of the Internal Revenue Code. (*See* Title 26, United States Code, index.)

42. The taxes imposed in Subtitle C of the Internal Revenue Code are different than the taxes imposed in Subtitle A of the Internal Revenue Code. (*See* Title 26, United States Code, index.)

43. The Federal Insurance Contributions Act (FICA) tax contained in Subtitle C at Section 3101 of the Internal Revenue Code is imposed on the individual's "income." (*See* 26 U.S.C. 3101.)

44. The rate of the tax set out at Section 3101 of the Internal Revenue Code is a percentage of the individual's wages. (*See* 26 U.S.C. 3101.)

45. The term "income" as used at Section 3101 of the Internal Revenue Code is the same income as used in Subtitle A of the Internal Revenue Code. (*See* 26 U.S.C. 3101; Title 26, United States Code, index.)

46. If one has no income, one is not subject to the tax imposed at Section 3101 of the Internal Revenue Code. (*See* 26 U.S.C. 3101.) (Ex. 093.)

47. The Federal Insurance Contributions Act (FICA) tax on employers contained in Subtitle C at Section 3111 of the Internal Revenue Code is an excise tax on employers with respect to their having employees. (*See* 26 U.S.C. 3111.)

48. At Section 3402 of the Internal Revenue Code, employers are directed to withhold from wages paid to employees, a tax determined in accordance with tables prescribed by the Secretary of the Treasury. (*See* 26 U.S.C. 3402.)

49. Congress does not identify the Section 3402 "tax determined" as either a direct tax, an indirect tax, and/or an "income" tax. (*See* 26 U.S.C. 3402.)

50. Congress made the employer liable for the Section 3402 tax at Section 3403 of the Internal Revenue Code. (*See* 26 U.S.C. Sections 3402 and 3403.)

51. At Section 3501 of the Internal Revenue Code, Congress directed the Secretary of the Treasury to collect the taxes imposed in Subtitle C and pay them into the Treasury of the United States as internal revenue collections. (*See* 26 U.S.C. 3501.)

52. Congress has not anywhere imposed the tax described at Section 3402 of the Internal Revenue Code. (*See* Title 26, United States Code, in its entirety.)

53. At Section 31 of the Internal Revenue Code, the amount of the Section 3402 tax on wages is allowed as a credit against the income tax imposed in Subtitle A. (*See* 26 U.S.C. Sections 1 and 31.)

54. If one does not have any tax imposed at Subtitle A for any reason whatsoever, the law enacted by Congress at Section 3402(n) of the Internal Revenue Code constitutes an exemption of the tax described at Section 3402(a) of the Internal Revenue Code. (*See* 26 U.S.C. Sections 3402.)

55. A typical American family works until noon of every working day just to pay its alleged tax obligations. (*See* Compilation of Tax Facts by freelance writer John NacIntyre, published in Southwest Airlines Spirit Magazine, 1999 ed., v. 4, hereinafter "Tax Facts," p. 154.)

56. The typical American family pays more in taxes than they spend on food, clothing, and housing combined. (*See* Tax Facts.)

57. There are currently over 480 tax forms. (*See* Tax Facts.)

58. The federal tax code contains over 7 million words. (*See* Tax Facts.)

59. Over 1/2 of Americans are paying some sort of tax professional to help them comply with alleged tax law requirements. (*See* Tax Facts.)

60. Each year the Internal Revenue Service sends out approximately 8 billion pages of tax forms and instructions, generating enough paper to stretch 28 times around the Earth.

61. Americans spend approximately 5.4 billion labor hours and $200 billion dollars per year attempting to comply with alleged tax requirements, which is more time and money than it takes to produce every car, truck, and van each year in the United States. (*See* Tax Facts.)

62. In 1913, the average American family had to work only until January 30th before earning enough to pay all alleged tax obligations. (*See* Tax Facts.)

63. The average American family had to work all the way through May 12th in order to pay their alleged federal, state, and local tax bills for the year 2000. (*See* Tax Facts.)

64. Economist Daniel J. Mitchell recently observed that: "[Medieval serfs] only had to give the lord of the manor a third of their output and they were considered slaves. So what does that make us?" (*See* "Legalized Loot" by Machan)

65. The average Wisconsin citizen had to work until May 9th this year to pay all alleged tax obligations. (*See* Tax Facts.)

66. Americans own less of their labor than feudal serfs.

67. The 13th Amendment to the U.S. Constitution states: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have power to enforce this article by appropriate legislation." (*See* U.S. Const. amend XIII.)

68. If Congress can constitutionally tax a man's labor at the rate of 1%, then Congress is free, subject only to legislative discretion, to tax that man's labor at the rate of 100%.

69. "Peonage" is a condition of servitude compelling a man or

woman or woman to perform labor in order to pay off a debt. (*See* Black's Law Dictionary, 6th Ed., West Publishing Co. 1990, p. 1135.)

70. The Federal Reserve Act was passed in 1913, within a few months of the ratification of the Sixteenth Amendment that allegedly authorized a tax on the incomes of most Americans.

71. The Federal Reserve Act allowed the U.S. government to borrow large sums of money from private banking institutions at interest, and thereby potentially create a large public debt.

72. U.S. Congress' inability to balance the federal budget or lack of fiscal discipline could create large volumes of public debt to the Federal Reserve.

73. The result of increasing public debt must be an increase in income tax revenues to pay off the debt in order to maintain solvency of the federal government.

74. An increase in income tax revenues would require a larger percentage of the wage (labor) income of average Americans to be extracted as income tax, because more than half of federal income tax revenues derive from personal income taxes rather than corporate income taxes.

75. There is an incentive for politicians to buy votes with borrowed money that will be paid off by unborn children at interest.

76. Requiring unborn children of tomorrow paying off extravagances of today at interest amounts to taxation without representation, which was the very reason our country rebelled from Great Britain to become an independent nation.

77. Thomas Jefferson, one of our founding fathers and author of our Declaration of Independence, said the following

> "I sincerely believe... that banking establishments are more dangerous than standing armies, and that the principle of spending money to be paid by posterity under the name of funding is but swindling futurity on a large scale." --Thomas Jefferson to John Taylor, 1816. ME 15:23
>
> "Funding I consider as limited, rightfully, to a redemption of the debt within the lives of a majority of the generation contracting it; every generation coming equally, by the laws of

the Creator of the world, to the free possession of the earth He made for their subsistence, unencumbered by their predecessors, who, like them, were but tenants for life." --Thomas Jefferson to John Taylor, 1816. ME 15:18

"[The natural right to be free of the debts of a previous generation is] a salutary curb on the spirit of war and indebtment, which, since the modern theory of the perpetuation of debt, has drenched the earth with blood, and crushed its inhabitants under burdens ever accumulating." --Thomas Jefferson to John Wayles Eppes, 1813. ME 13:272

"We believe--or we act as if we believed--that although an individual father cannot alienate the labor of his son, the aggregate body of fathers may alienate the labor of all their sons, of their posterity, in the aggregate, and oblige them to pay for all the enterprises, just or unjust, profitable or ruinous, into which our vices, our passions or our personal interests may lead us. But I trust that this proposition needs only to be looked at by an American to be seen in its true point of view, and that we shall all consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves; and consequently within what may be deemed the period of a generation, or the life of the majority." --Thomas Jefferson to John Wayles Eppes, 1813. ME 13:357

"It is incumbent on every generation to pay its own debts as it goes. A principle which if acted on would save one-half the wars of the world." --Thomas Jefferson to A. L. C. Destutt de Tracy, 1820. FE 10:175

“To preserve [the] independence [of the people,] we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude. If we run into such debts as that we must be taxed in

> our meat and in our drink, in our necessaries and our comforts, in our labors and our amusements, for our callings and our creeds, as the people of England are, our people, like them, must come to labor sixteen hours in the twenty-four, give the earnings of fifteen of these to the government for their debts and daily expenses, and the sixteenth being insufficient to afford us bread, we must live, as they now do, on oatmeal and potatoes, have no time to think, no means of calling the mismanagers to account, but be glad to obtain subsistence by hiring ourselves to rivet their chains on the necks of our fellow-sufferers." --Thomas Jefferson to Samuel Kercheval, 1816. ME 15:39

78. With an unlimited source of credit in the Federal Reserve, and an ability to claim any percentage of the income of the Average American in income taxes, the growth of the federal government and the smothering and complete extinguishment of liberty is inevitable given the vagaries and weaknesses of the humankind who occupy public office.

79. "Peonage" is a form of involuntary servitude prohibited by the Thirteenth Amendment to the Constitution of the United States. [*See Clyatt v. United States*, 197 U.S. 201 (1905)]

80. The U.S. Congress abolished peonage in 1867. (*See* 42 U.S.C. 1994; R.S. Section 1990, Act of Mar. 2, 1867, c. 187, Section 1, 14 Stat. 546.)

81. Holding or returning any person to a condition of peonage is a crime under 18 U.S.C. 1581. (*See* 18 U.S.C. 1581)

82. Involuntary servitude means a condition of servitude in which the victim is forced to work for another by use or threat of physical restraint or injury, or by the use or threat of coercion through law or legal process. [*See Clyatt v. United States*, 197 U.S. 201 (1905)*; Bailey v. Alabama*, 219 U.S. 219 (1910); *United States v. Kozminski*, 487 U.S. 931 (1988)]

83. If an American stops turning over the fruits of his or her

labor to the federal government in the form of income tax payments, he suffers under the risk of possible criminal prosecution and incarceration. (*See* Form 1040 Instruction Booklet)

CONGRESS LACKS THE AUTHORITY TO LEGISLATE AN INCOME TAX ON THE PEOPLE EXCEPT IN THE DISTRICT OF COLUMBIA, THE US TERRITORIES AND IN THOSE AREAS WITHIN ANY OF THE 50 STATES WHERE THE STATES HAVE SPECIFICALLY AUTHORIZED IT, IN WRITING.

84. At Section 7608(a) of the Internal Revenue Code, Congress set forth the authority of internal revenue officers with respect to enforcement of Subtitle E and other laws pertaining to liquor, tobacco, and firearms. [(*See* 26 U.S.C. 7608(a)]

85. At Section 7608(b) of the Internal Revenue Code, Congress set forth the authority of internal revenue officers with respect to enforcement of laws relating to internal revenue other than Subtitle E. [*See* 26 U.S.C. 7608(b)]

86. The only persons authorized to enforce Subtitle A are special agents and investigators. [*See* 26 U.S.C. 7608(b)]

87. The term "person" as that term is used in Internal Revenue Code Section 6001 and 6011 is defined at Section 7701(a)(1). [*See* 26 U.S.C. 6001, 6011, and 7701(a)(1)]

88. Internal Revenue Code Section 7701(a)(1) states: "The term person shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation." [(*See* 26 U.S.C. 7701(a)(1)]

89. Trusts, estates, partnerships, associations, companies and corporations do not have arms and legs, do not get married, do not eat, drink and sleep, and are not otherwise included in what one not trained in the law would recognize as a "person." (Common Knowledge.)

90. Internal Revenue Code Section 6012(a) states that: "(a)General Rule. Returns with respect to income taxes under subtitle A shall be made by the following: (1)(A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount or more . . . ." [(*See* 26 U.S.C. 6012(a)]

91. Internal Revenue Code Section 1 imposes a tax on the taxable income of certain "persons" who are "individuals" and "estates and trusts." (*See* 26 U.S.C. 1.)

92. The "individual" mentioned in Internal Revenue Code Section 6012 is the same individual as mentioned in Internal Revenue Code Section 1. (*See* 26 U.S.C. Sections 1 and 6012.)

93. The "individual" mentioned by Congress in Internal Revenue Code Section 6012 and Internal Revenue Code Section 1 is not defined anywhere in the Internal Revenue Code. (*See* 26 U.S.C. Sections 1.1 and 6012; Title 26, United States Code, in its entirety.)

94. 26 C.F.R. 1.1-1 is the Treasury Regulation that corresponds to Internal Revenue Code Section 1. (*See* 26 U.S.C. 1; 26 C.F.R. 1.1-1.)

95. At 26 C.F.R. 1.1-1(a)(1), the individuals identified at Section 1 of the Internal Revenue Code are those individuals who are either citizens of the United States, residents of the United States, or non-resident aliens. [*See* 26 U.S.C. 1.1; 26 C.F.R. 1.1-1(a)(1)]

96. The "residents" and "citizens" identified in 26 C.F.R. 1.1-1(a)(1) are mutually exclusive classes. [*See* 26 C.F.R. 1.1-1(a)(1)]

97. As used in 26 C.F.R. Sec. 1.1-1, the term "resident" means an alien. (*See* 26 C.F.R. 1.1-1.)

98. 26 C.F.R. 1.1-1(c) states that: "Every person born or

naturalized in the United States, and subject to its jurisdiction, is a citizen." [*See* 26 C.F.R. 1.1-1(c)]

99. A person who is born or naturalized in the United States but not subject to its jurisdiction, is not a citizen within the meaning of 26 C.F.R. 1.1-1. (*See* 26 U.S.C. 1.1-1)

100. On April 21, 1988, in the United States District Court, Southern District of Indiana, Evansville Division, in the case of *United States v. James I. Hall*, Case No. EV 87-20-CR, IRS Revenue Officer Patricia A. Schaffner, testified under penalties of perjury that the terms "subject to its jurisdiction" as used at 26 C.F.R. 1.1-1(c) meant being subject to the laws of the country, and that meant the "legislative jurisdiction" of the United States. (*See* "Judicial Tyranny and Your Income Tax," Jeffrey A. Dickstein, J.D., Custom Prints 1990, Appendix B, pp. 309-357.)

101. In the same case, Patricia A. Schaffner testified under oath the term "subject to its jurisdiction" could have no other meaning than the "legislative jurisdiction" of the United States. (*See* "Judicial Tyranny and Your Income Tax," Jeffrey A. Dickstein, J.D., Custom Prints 1990, Appendix B, pp. 309-357.)

102. When Patricia A. Schaffner was asked to tell the jury what facts made Mr. Hall subject to the "legislative jurisdiction" of the United States, the prosecutor, Assistant United States Attorney Larry Mackey objected, and the court sustained the objection. (*See* "Judicial Tyranny and Your Income Tax," Jeffrey A. Dickstein, J.D., Custom Prints 1990, Appendix B, pp. 309-357.)

103. The Internal Revenue Service is never required by the Federal courts to prove facts to establish whether one is subject to the jurisdiction of the United States. (*See* "Judicial Tyranny and Your Income Tax," Jeffrey A. Dickstein, J.D., Custom Prints 1990, Appendix B, pp. 309-357.)

104. The United States Department of Justice and United States Attorneys, and their assistants, always object when an alleged taxpayer demands the Government prove that they are subject to the jurisdiction of the United States, and the federal courts always sustain those objections, which means that the federal courts routinely prohibit the introduction of potentially exculpatory evidence in tax crime trials.

105. The IRS has been directed to maintain a system of financial records on all federal judges, all IRS Criminal Investigation Division Special Agents, and all U.S. Attorneys, which records cannot be accessed by the subject(s) under the FOIA or Privacy Act. (*See* Treasury System of Records 46.002 as identified in Treasury/IRS Privacy Act of 1974 Resource Document #6372)

106. Unless specifically provided for in the United States Constitution, the federal government does not have legislative jurisdiction in the states. [*See United States v. Lopez*, 514 US 549 (1995)]

107. 40 U.S.C. §255 identifies the only method by which the federal government may acquire legislative jurisdiction over a geographic area within the outer limits of a state of the Union, which is by state cession *in writing*. (*See* 40 U.S.C. §255.)

108. On December 15, 1954, an interdepartmental committee was commissioned on the recommendation of the Attorney General of the United States, Herbert Brownell, Jr., and approved by President Eisenhower and his cabinet, named the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States, and charged with the duty of studying and reporting where the United States had legal authority to make someone subject to its jurisdiction. (*See* "Jurisdiction over Federal Areas Within the States: Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States," April 1956, hereinafter "the Report.")

109. In June of 1957, the "Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States" issued "Part II" of its report entitled "Jurisdiction Over Federal Areas Within the States." (*See* Report, p. 197.)

110. The Report makes the following statements:

> a. "The Constitution gives express recognition to but one means of Federal acquisition of legislative jurisdiction -- by State consent under Article I, section 8, clause 17... Justice McLean suggested that the Constitution provided the sole

mode for transfer of jurisdiction, and that if this mode is not pursued, no transfer of jurisdiction can take place." (*See* Report, p. 41.)

b. "It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or unless the Federal Government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State, such jurisdiction being for exercise by the State, subject to non- interference by the State with Federal functions," (*See* Report, p. 45.)

c. "The Federal Government cannot, by unilateral action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State," (*See* Report, p. 46.)

d. "On the other hand, while the Federal Government has power under various provisions of the Constitution to define, and prohibit as criminal, certain acts or omissions occurring anywhere in the United States, it has no power to punish for various other crimes, jurisdiction over which is retained by the States under our Federal-State system of government, unless such crime occurs on areas as to which legislative jurisdiction has been vested in the Federal Government." (*See* Report, p.107.)

111. The phrase "subject to their jurisdiction" as used in the Thirteenth Amendment means subject to both the jurisdiction of the several states of the union and the United States. (*See* U.S. Const. Amendment 13.)

112. The "subject to its jurisdiction" component of the

definition of citizen set out at 26 C.F.R. 1.1-1(c) has a different meaning than the phrase “subject to their jurisdiction” as used in the Thirteenth Amendment to the Constitution of the United States. (*See* 26 C.F.R. 1.1-1(c); U.S. Const. amend 13.)

113. The term "foreign" is nowhere defined in the Internal Revenue Code.

114. The term "foreign" means anything outside of the legislative jurisdiction of the Congress, which means anything outside of federal property ceded, in most cases, to the federal government by the states as required by 40 U.S.C. §255. (*See* 40 U.S.C. §255.)

115. A Treasury Regulation cannot create affirmative duties not otherwise imposed by Congress in the underlying statute, corresponding Internal Revenue Code section. [*See C.I.R. v. Acker*, 361 U.S. 87, 89 (1959)*; U.S. v. Calamaro*, 354 U.S. 351, 358-359 (1957)]

116. Congress defined a “taxpayer” at Section 7701(a)(14) of the Internal Revenue Code, as any person subject to any Internal Revenue tax. [*See* 26 U.S.C. 7701(a)(14)]

117. "Subject to" is defined in Black’s Law Dictionary, Sixth Edition, page 1425 as:

> “Liable, subordinate, subservient, inferior, obedient to; governed or affected by; provided that; provided; answerable for.” Homan v. Employers Reinsurance Corp., 345 Mo. 650, 136 S.W.2d 289, 302

(*See* Black’s Law Dictionary, Sixth Edition, page 1425)

118. Based on the above definition of "subject to", use of the term "taxpayer" in describing anyone creates a presumption of liability for tax on the part of the person being referred to.

119. The IRS uses the term "taxpayer" to refer to ***everyone***, including those not necessarily subject to or liable for Subtitle A income taxes.

120. In *Botta v. Scanlon*, 288 F.2d. 504, 508 (1961), a federal court said:

"A reasonable construction of the taxing statutes does not include vesting any tax official with absolute power of assessment against individuals not specified in the states as a person liable for the tax without an opportunity for judicial review of this status before the appellation of 'taxpayer' is bestowed upon them and their property is seized..."

[*See Botta v. Scanlon*, 288 F.2d. 504, 508 (1961)]

121. Based on the above, it is a violation of due process and a violation of delegated authority for any IRS tax official to refer to any person as a "taxpayer" who does not first identify him or herself as such *voluntarily*.

122. The federal courts, in the case of *Long v. Rasmussen*, 281 F. 236 (1922) stated at 238:

"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws..."

"The distinction between persons and things within the scope of the revenue laws and those without is vital."

(*See* ***Long v. Rasmussen***, 281 F. 236 (1922) at 238) (Ex. 019c)

123. One who is not a citizen, resident, or non-resident alien, is not an individual subject to the tax imposed by Section 1 of the Internal Revenue Code. (*See* 26 U.S.C. 1; 26 C.F.R. 1.1-1.)

124. An individual who is not subject to the tax imposed by Section 1 of the Internal Revenue Code, is not an individual required to make a return under the Requirement of Internal Revenue Code Section 6012. (*See* 26 U.S.C. Sections 1.1 and 6012.)

125. The Supreme Court, in a dissenting opinion of Judge Harlan in the case of *Downes v. Bidwell*, 182 U.S. 244 (1901), stated:

> "The idea prevails with some, indeed it has found expression in arguments at the bar, that we have in this country substantially two national governments; one to be maintained under the Constitution, with all of its restrictions; the other to be maintained by Congress outside the independently of that instrument, by exercising such powers [of absolutism] as other nations of the earth are accustomed to…I take leave to say that, if the principles thus announced should ever receive the sanction of a majority of this court, a radical and mischievous change in our system of government will result. We will, in that event, pass from the era of constitutional liberty guarded and protected by a written constitution into an era of legislative absolutism. It will be an evil day for American liberty if the theory of a government outside the supreme law of the land finds lodgment in our constitutional jurisprudence. No higher duty rests upon this court than to exert its full authority to prevent all violation of the principles of the Constitution." (*See* **Downes v. Bidwell**, 182 U.S. 244 (1901)

126. The jurisdiction that Honorable Justice Harlan above was referring to where "legislative absolutism" would or could reign was in areas subject to the legislative jurisdiction of the U.S. government, which includes the District of Columbia, federal enclaves within the states, and U.S. territories and possessions.

127. The Internal Revenue Manual says the following, in Section 4.10.7.2.9.8 (05-14-1999):

Importance of Court Decisions

1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.

2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners,

Supreme Court decisions have the same weight as the Code.

3. **Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated.** Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers.

128. The Internal Revenue Service, in its responsive letters to tax payers, routinely and chronically violates the above requirements by citing cases below the Supreme Court level, which do not apply to more than the individual taxpayer in question according to the above.

IRS IS PROHIBITED BY THE 4TH AND 5TH AMENDMENTS FROM COMPELLING PEOPLE TO SIGN AND FILE AN INCOME TAX RETURN FORM 1040

129. 26 U.S.C. º 6001 requires the keeping of records. (*See* 26 U.S.C. 6001.)

130. 26 U.S.C. 7203 makes it a federal crime not to keep the records required under section 6001. (*See* 26 U.S.C. 7203.)

131. The records required under 26 U.S.C. 6001 contain information that will appear on the tax returns pertaining to federal income taxes. (*See* 26 U.S.C. 6001.)

132. The Fifth Amendment prohibits the government from compelling an American to be a witness against himself. (*See* U.S. Const. amend V.)

133. The IRS currently uses the following: Non-Custodial Miranda warning:

> "In connection with my investigation of your tax liability I would like to ask you some questions. However, first I advise you that under the fifth Amendment to the Constitution of the United States I cannot compel you to answer any questions or

> to submit any information. If such answers or information might tend to incriminate you in any way, I also advise you that anything which you say and any documents which you submit may be used against you in any criminal proceeding which may be undertaken. I advise you further that you may, if you wish, seek the assistance of an attorney before responding."

(*See* IRS Handbook for Special Agents.)

134. The Privacy Act and Paperwork Reduction Act notices currently used by the IRS provides that the information provided in the preparation of a tax return can go to the Department of Justice who prosecutes criminal cases against the filers of tax returns. (*See* IRS Form 1040 and Instruction Booklet.)

135. The United States Attorneys' Bulletin, April 1998 edition, contained an article written by Joan Bainbridge Safford, Deputy United States Attorney, Northern District of Illinois, entitled: "Follow That Lead! Obtaining and Using Tax Information in a Non-Tax Case," hereinafter "Follow that Lead!".

136. The article states the following:

> "In any criminal case where financial gain is the prominent motive, tax returns and return information can provide some of the most significant leads, corroborative evidence, and cross-examination material obtainable from any source."

(*See* Follow that Lead!)

137. The article states the following;

> "In even the most straightforward fraud case, the usefulness of tax returns should be apparent . . . the tax return information provides a statement under penalty of perjury which may either serve as circumstantial evidence of the target' misrepresentation of his economic status or as helpful cross-examination material . . . Disclosure of tax returns may also provide critical leads and impeachment material."

(*See* Follow that Lead!)

138. The Disclosure, Privacy Act, and Paperwork Reduction Act Notice set out in the IRS Form 1040 Instruction Booklet states the following:

"[W]e may disclose your tax information to the Department of Justice, to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. Commonwealths or possessions, and certain foreign governments to carry out their tax laws."

(*See* 2001 IRS Form 1040 Inst. Booklet, Privacy Act Notice)

139. Tax returns are used by the IRS to develop civil and criminal cases against the filers of the tax returns. (*See* Follow that Lead!)

140. Tax returns of a filer are used as evidence against the filer in both civil and criminal income tax cases. (*See* Annotations, Title 26, Sections 7201,7203)

141. The United States Supreme Court has held that a fifth amendment privilege exists against requiring a person to admit or deny he has documents which the government believes is related to the federal income tax. [*See United States v. Doe*, 465 U.S. 605 (1984)]

142. The Fifth Amendment provides an absolute defense to tax crimes. (*See United States v. Heise*, 709 F.2d 449, 450 (6th Cir. 1983); *Garner v. United States*, 424 U.S. 648, 662-63 (1976).) (Ex. 184, 185.)

143. The U.S. Court of Appeals for the 10th Circuit took the position in *U.S. v. Conklin*, (1994), WL 504211, that the filing of an income tax return (Form 1040) is not compelled and, therefore, the principle that no one may be forced to waive their 5th Amendment rights in order to comply with a law is not applicable to federal income tax returns. (*See U.S. v. Conklin*, (1994), WL 504211) (Ex. 185a)

144. The Supreme Court has held that if one wants to assert the Fifth Amendment to an issue pertaining to a federal income tax return, one must make that claim on the form itself. (*Sullivan v. United States*, 274 U.S. 259 (1927).)

145. If one claims Fifth Amendment protection on an income tax form, that act can result in criminal prosecution for failure to file income tax returns, income tax evasion, or conspiracy to defraud. [*See United States v. Waldeck*, 909 F.2d 555, 561 (1st Cir. 1990)]

146. The Paperwork Reduction Act Notice (the "Notice") set out in the IRS Form 730 states that:

"You must file Form 730 and pay the tax on wagers under section 4401(a) if you: Are in the business of accepting wagers, or Conduct a wagering pool or lottery."

(*See* IRS Form 730.)

147. The Notice states the following:

> [C]ertain documents related to wagering taxes and information obtained through them that relates to wagering taxes may not be used against the taxpayer in any criminal proceeding. See section 4424 for more details.

(*See* IRS Form 730.)

148. In 1997, 5,335 tax audits resulted in criminal investigations of those tax filers. (Speculation: Tax Facts, etc.)

149. Judge Learned Hand stated that:

> Logically, indeed, he (the taxpayer) is boxed in a paradox for he must prove the criminatory character of what it is his privilege to suppress just because it is criminatory. The only practicable solution is to be content with the door's being set a little ajar, AND WHILE AT TIMES THIS NO DOUBT PARTIALLY DESTROYS THE PRIVILEGE, ...nothing better is available.

(*See United States v. Weisman*, 111 F.2d 260, 262 (1947) (emphasis added).)

150. The Constitution is the Supreme Law of the Land.

151. The American people do not have to tolerate an income tax system in which the federal government requires a citizen to give up any constitutional rights.

PERSONAL INCOME TAXES POLARIZE AND DIVIDE AN OTHERWISE UNITED NATION AND PROMOTE CLASS WARFARE AND MISTRUST OF OUR GOVERNMENT.

152. The second plank in the Communist Manifesto calls for a heavy, progressive (graduated) income tax not unlike what we have now with the IRS form 1040, which punishes the rich so that wealth may be redistributed to the poor.

153. The U.S. Constitution requires that all income taxes must be uniform as follows, from in Article 1, Section 8, clause 1 of the U.S. Constitution, which says:

> "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;"

154. To be uniform, a tax must apply equally to all persons similarly situated and all property of the same type or class being taxed must be taxed at the same percentage rate, no matter where people live, where the property is, or how much taxable income the person makes. Otherwise, the tax discriminates against the rich.

155. The Supreme Court stated in the case of *Pollack v. Farmer's Loan and Trust Company,* 157 U.S. 429, 158 U.S. 601 (1895) that:

"Congress has the exclusive power of selecting the class. It has regulated that particular branch of commerce which concerns the bringing of alien passengers,' and that taxes shall be levied upon such property as shall be prescribed by law. ***The object of this provision was to prevent unjust discriminations. It prevents property from being classified, and taxed as classed, by different rules.*** All kinds of property must be taxed uniformly or be entirely exempt. The uniformity must be coextensive with the territory to which the tax applies.

Mr. Justice Miller, in his lectures on the constitution, 1889-1890 (pages 240, 241), said of taxes levied by congress: '***The tax must be uniform on the particular article; and it is uniform, within the meaning of the constitutional requirement, if it is made to bear the same percentage over all the United States.*** That is manifestly the meaning of this word, as used in this clause. The framers of the constitution could not have meant to say that the government, in raising its revenues, should not be allowed to discriminate between the articles which it should tax.' In discussing generally the requirement of uniformity found in state constitutions, he said: 'The difficulties in the way of this construction have, however, been very largely obviated by the meaning of the word [157 U.S. 429, 595] 'uniform,' which has been adopted, holding that the uniformity must refer to articles of the same class; that is, different articles may be taxed at different amounts, provided the rate is uniform on the same class everywhere, with all people, and at all times.'

One of the learned counsel puts it very clearly when he says that the correct meaning of the provisions requiring duties, imposts, and excises to be 'uniform throughout the United States' is that the law imposing them should 'have an equal and uniform application in every part of the Union.'

If there were any doubt as to the intention of the states to make the grant of the right to impose indirect taxes subject to the condition that such taxes shall be in all respects uniform and impartial, that doubt, as said by counsel, should be resolved in the interest of justice, in favor of the taxpayer."

156. The article being taxed in the case of Subtitle A income taxes is dollar bills, or "income" as constitutionally defined.

157. In order to meet the uniformity requirement, every dollar bill (the article being taxed) taxed must be taxed at the *same rate* and not in a way that is based on the income of the person receiving it, because this would amount to discrimination according to the Supreme Court as listed above.

158. Because graduated income taxes violate the uniformity requirement of the Constitution, they must be voluntary, because the government cannot by legislation compel its citizens to violate the Constitution.

159. The Supreme Court stated the following about the nature of income taxes in general, and that neither of these two cases has ever been overruled:

> "To lay with one hand the power of government on the property of the citizen, and with the other to bestow it on favored individuals.. is none the less robbery because it is.. called taxation."
> **Loan Association v. Topeka,** 20 Wall. 655 (1874)

> "A tax, in the general understanding of the term and as used in the constitution, signifies an exaction for the support of the government. The word has never thought to connote the expropriation of money from one group for the benefit of another." **U.S. v. Butler**, 297 U.S. 1 (1936)

160. All entitlement programs, including Welfare, Social Security, FICA, etc, fall into the class of taxes identified in **U.S. v. Butler** that are "expropriations of money from one group for the benefit of another."

161. Using income taxes to redistribute income or property between social classes or persons within society makes the U.S. into a socialist country:

> **"socialism 1.** : any of various economic political theories advocating collective or governmental ownership and administration of the means of production and distribution of goods. **2. a**: a system of society or group living in which there

> is no private property b: a system or condition of society in which the means of production are owned and controlled [partially or wholly] by the state **3**: **a stage of society in Marxist theory transitional between capitalism and communism** and distinguished by unequal distribution of goods and pay according to work done."
> [Webster's Ninth New Collegiate Dictionary, 1983, Merriam-Webster, p. 1118]

162. The Supreme Court, in *Pollock v. Farmers Loan and Trust*, 157 U.S. 429 (1895), stated about the very first income tax instituted by Congress that:

> "The present **assault upon capital** is but the beginning. **It will be but the stepping stone to others larger and more sweeping**, until our political contest will become war of the poor against the rich; a war of growing intensity and bitterness.
> …
> The legislation, in the discrimination it makes, is class legislation. **Whenever a distinction is made in the burdens a law imposes or in the benefits it confers on any citizens by reason of their birth, or wealth, or religion, it is class legislation, and leads inevitably to oppression and abuses, and to general unrest and disturbance in society**."

163. The payment of social benefits to persons not associated with the government under entitlement programs such as Social Security and Welfare invites and encourages the kind of class warfare described above in ***Pollock v. Farmers Loan and Trust***, 157 U.S. 429 (1895).

165. Compelled charity is not charity at all, but slavery disguised as charity.

166. Social Security is not insurance and are is not a contract as ruled by the Supreme Court in ***Helvering v. Davis***, 301 U.S. 619 (1937) and ***Flemming v. Nestor***, 363 U.S. 603 (1960).

167. Social Security is Socialism, and that socialism *must be* voluntary *at all times* in a free country if liberty is to be preserved.

168. For the Social Security program to be called voluntary, a participant should be able or at least know how to quit a program at all times and that the agency should not constrain or restrict those who quit or refuse to provide information about how to quit.

169. The Social Security Administration has no documented means to quit the Social Security program on their website or in any of their publications, and that they will not tell you how to do so if you call their 800 number.

170. Absent an ability to leave the Social Security program at any time, the program constructively becomes a *compulsory/involuntary* program for those joined because they are not allowed to quit.

171. The application for joining Social Security does not indicate that the choice to join in *irrevocable*.

172. Most persons who allegedly joined the Social Security program did so when they were not competent adults, and joining was done by the parents and without the consent or assent of the child joining.

173. Persons whose parents applied for Social Security on their behalf are not offered a choice, upon reaching adulthood, to rescind the application so that their participation is entirely voluntary.

174. The Enumeration at Birth Program of the Social Security Administration creates the impression at hospitals where babies are born that the obtaining of Social Security numbers for their children is mandatory, and that they make it inconvenient and awkward to refuse receiving a number for their child.

175. Even though income tax returns require listing social security numbers for children who are dependents in order to claim them as deductions, parents may provide other proof such as a birth certificate in lieu of a social(ist) security number to claim the deduction.

176. A majority of employers will insist that their employees obtain a Social Security Number as a precondition of employment, and that this makes joining the program compulsory and not mandatory for all practical purposes.

177. Using the government to plunder the assets of the rich to support the poor using the force of the law is no less extortion or theft because it is called "taxation".

THE 16TH AMEND. DID NOT COME CLOSE TO BEING RATIFIED BY 3/4THS OF THE STATE LEGISLATURES AS REQUIRED BY

ARTICLE 5; THE INCOME TAX IS, THEREFORE, VIOLATIVE OF ART. I, SEC. 9, CL 4

178. The IRS says it is the 16th Amendment that gives it the authority to impose the income tax directly on the working people of America.(*See* IRS Publication No. 1918 (July, 96), Cat. No. 22524B ;"The sixteenth amendment to the Constitution states that citizens are required to file tax returns and pay taxes.")

179. The New York Times says the 16th Amendment is the government's authority to impose the income tax directly on the working people of America. (*See* The New York Times Almanac, 2001, The World's Most Comprehensive and Authoritative Almanac, page 161: "Congress's right to levy taxes on the income of individuals and corporations was contested throughout the 19th century, but that authority was written into the Constitution with the passage of the 16th Amendment in 1913.")

180. The federal courts have said the 16th Amendment is the government's authority to impose the income tax directly on the working people of America. (*See* United States of America vs. Jerome David Pederson, (1985) Case No. CR-84-57-GF: Judge Paul G. Hatfield (United States District Court For The District of Montana) wrote: "The income tax laws of the United States of America are constitutional, having been validly enacted under authority of the Sixteenth Amendment to the United States Constitution.") (*See* United States v. Lawson, 670 F.2d 923, 927 (10th Cir. 1982): the court declared: "The Sixteenth Amendment removed any need to apportion income taxes among the states that otherwise would have been required by Article I, Section 9, clause 4.")

181. Findings, published in "The Law That Never Was," make a compelling case that the 16th Amendment (the "income tax amendment") was not legally ratified and that Secretary of State Philander Knox was not merely in error, but committed fraud when he declared it ratified in February 1913. (See "The Law That Never Was," by Bill Benson and Red Beckman.)

182. The U.S. Court of Appeals, in *U.S. v. Stahl* (1986), 792 F2d 1438, ruled that the claim that ratification of the 16th Amendment was a fraudulently certified was a political question for Congress to decide because the court could not reach the merits of the claim without expressing a lack of

respect due the Congress and the Executive branches of the government. (*See U.S. v. Stahl*, 792 F2d 1438)

183. In 1985, the Congressional Research Service issued a Report, at the request of Congressmen, to address the claim by Bill Benson that the 16th Amendment was a fraud. (*See* "Ratification of the Sixteenth Amendment," by John Ripy, Esq, CRS 1985, the "Ripy Report").

184. The Ripey Report was very specific in its declaration that it was not going to address the specific factual allegations detailed in Benson's book, "The Law That Never Was." (*See* "Ratification of the Sixteenth Amendment," by John Ripy, Esq, CRS 1985).

185. The Ripy Report then went on to assert that the actions of a government official must be presumed to be correct and cannot be judged or overturned by the courts. (*See* "Ratification of the Sixteenth Amendment," by John Ripy, Esq, CRS 1985, the "Ripy Report")

186. When it comes to amending the Constitution the government appears to do whatever it wants to do, making up the rules regarding the ratification process as it goes along, while ignoring the spirit, if not the letter, of Article V of the Constitution.

187. The 27th Amendment was proposed by Congress on September 25, 1789 and that the states were allowed 202 years within which to have 3/4th of the states ratify it, with Maryland ratifying it on December 19, 1789 and New Jersey on 1992 (See 57 FR 21187.) (*See* Annotations, 27th Amendment.)

188. In 1921, in the case of *Dillon v. Gloss*, 256 U.S. 368, 374-375, the Supreme Court concluded:

> We do not find anything in the article which suggests that an amendment once proposed is to be open to ratification for all time, or that ratification in some of the states may be separated from that in others by many years and yet be effective. We do find that which strongly suggests the contrary. First, proposal and ratification are not treated as unrelated acts, but as succeeding steps in a single

endeavor, the natural inference being that they are not to be widely separated in time. Secondly, it is only when there is deemed to be a necessity therefore that amendments are to be proposed, the reasonable implication being that when proposed they are to be considered and disposed of presently. Thirdly, as ratification is but the expression of the approbation of the people and is to be effective when had in three- fourths of the states, there is a fair implication that it must be sufficiently contemporaneous in that number of states to reflect the will of the people in all sections at relatively the same period, which of course ratification scattered through a long series of years would not do. These considerations and the general purport and spirit of the article lead to the conclusion expressed by Judge Jameson 'that an alteration of the Constitution proposed to-day has relation to the sentiment and the felt needs of to-day, and that, if not ratified early while that sentiment may fairly be supposed to exist, it ought to be regarded as waived, and not again to be voted upon, unless a second time proposed by Congress.' That this is the better conclusion becomes even more manifest when what is comprehended in the other view is considered; for, according to it, four amendments proposed long ago-two in 1789, one in 1810 and one in 1861-are still pending and in a situation where their ratification in some of the states many years since by representatives of generations now largely forgotten may be effectively supplemented in enough more states to make three-fourths by representatives of the present or some future generation. To that view few would be able to subscribe, and in our opinion it is quite untenable. We conclude that the fair inference or implication from article 5 is that the ratification must be within some reasonable time after the proposal.

(*See Dillon v. Gloss*, 256 U.S. 368, 374-375 (1921).) (Ex. 028.)

189. The date of September 25, 1789, when the 27th Amendment was first proposed, is "widely separated in time" from the date of March 6, 1978, when Wyoming ratified this amendment. (*See* Annotations, 27th Amendment.)

190. Pursuant to the United States Constitution, Congress is authorized to impose two different types of taxes: direct taxes and indirect taxes. (*See* U.S. Const. Art. 1, Section 2, clause 3; U.S. Const. Art. 1, Section 8, clause 1; U.S. Const. Art. 1, Section 9, clause 4.)

191. The constitutionality of the 1894 income tax act was in question in the case of *Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429, aff. reh., 158 U.S. 601 (1895), and that in this case, the Supreme Court found that Congress could tax real and personal property only by means of an apportioned, direct tax. Finding that the income from real and personal property was part of the property itself, the Court concluded in this case that a federal income tax could tax such income only by means of an apportioned tax. Further finding that as this particular tax was not apportioned, it was unconstitutional. (*See Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429, aff. reh., 158 U.S. 601 (1895).) (Ex. 032, 033.)

192. For Congress to tax today real or personal property, the tax would have to be apportioned among the states. (*See* U.S. Const. Art. 1, Section 9, clause 4)

193. For Congress to tax income from real and personal property without the authority of the 16th Amendment, such taxes would have to be apportioned among the states. (*See* U.S. Const. Art. 1, Section 9, Clause 4)

194. In 1913, the following law, Revised Statutes 205, was in effect:

> "Sec. 205. Whenever official notice is received at the Department of State that any amendment proposed to the Constitution of the United States has been adopted, according to the provisions of the Constitution, the Secretary of State shall forthwith cause the amendment to be published in the newspapers authorized to promulgate the laws, with his certificate, specifying the States by which

> the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States."

(*See* R.S. Section 205.)

195. Revised Statutes Section 205 provided that "official notice" of a State's ratification of an amendment must be received at the State Department. (*See* R.S. Section 205)

196. On or about July 31, 1909, Senate Joint Resolution 40 proposing the ratification of the 16th Amendment was deposited with the Department of State and the same was published at 36 Stat. 184, and that this resolution read as follows:

> SIXTY-FIRST CONGRESS OF THE UNITED STATES OF AMERICA AT THE FIRST SESSION
>
> Begun and held at the City of Washington on Monday, the fifteenth day of March, one thousand nine hundred and nine.
>
> JOINT RESOLUTION.
>
> Proposing an amendment to the Constitution of the United States.
>
> Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several states, shall be valid to all intents and purposes as a part of the Constitution: "Article XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without

apportionment among the several States, and without regard to any census or enumeration."

J.C. CANNON,
Speaker of the House of Representatives.

J.S. SHERMAN,
Vice-President of the United States, and President of the Senate.

(*See* SJ 40, 36 Stat. 184.)

197. On July 27, 1909, the same Congress adopted Senate Concurrent Resolution 6, which read as follows:

CONCURRENT RESOLUTION

Resolved by the Senate (the House of Representatives concurring), That the President of the United States be requested to transmit forthwith to the executives of the several States of the United States copies of the article of amendment proposed by Congress to the State legislatures to amend the Constitution of the United States, passed July twelfth, nineteen hundred and nine, respecting the power of Congress to lay and collect taxes on incomes, to the end that the said States may proceed to act upon the said article of amendment; and that he request the executive of each State that may ratify said amendment to transmit to the Secretary of State a certified copy of such ratification.

Attest: Charles G. Bennett
Secretary of the Senate

A. McDowell
Clerk of the House of Representatives

(*See* Concurrent Resolution)

198. Not only did this resolution request that certified copies of favorable State ratification resolutions be sent to Washington, D.C., the States were expressly informed to do so by Secretary of State Philander Knox, who sent the following "form" letter to the governors of the 48 States then in the Union:

> "Sir:
>
> "I have the honor to enclose a certified copy of a Resolution of Congress, entitled 'Joint Resolution Proposing an Amendment to the Constitution of the United States,' with the request that you cause the same to be submitted to the Legislature of your State for such action as may be had, and that a certified copy of such action be communicated to the Secretary of State, as required by Section 205, Revised Statutes of the United States. (See overleaf.)
>
> An acknowledgment of the receipt of this communication is requested.
>
> I have the honor to be, Sir,
>
> Your obedient servant,
> P.C. Knox"

(*See* copy of "form" letter)

199. In 1909, there were 48 states and that three-fourths, or 36, of them were required to give their approval in order for it to be ratified. (*See* Knox's Proclamation)

200. Philander Knox declared the 16th amendment ratified on February 25, 1913, naming the following 38 states as having approved it: Alabama, Kentucky, South Carolina, Illinois, Mississippi, Oklahoma, Maryland, Georgia, Texas, Ohio, Idaho, Oregon, Washington, California,

Montana, Indiana, Nevada, North Carolina, Nebraska, Kansas, Colorado, North Dakota, Michigan, Iowa, Missouri, Maine, Tennessee, Arkansas, Wisconsin, New York, South Dakota, Arizona, Minnesota, Louisiana, Delaware, Wyoming, New Jersey and New Mexico. (*See* Knox's Proclamation)

201. When California provided uncertified copies of its resolution to Secretary of State Philander Knox, Knox wrote the following to California Secretary of State Frank Jordan: "I have the honor to acknowledge the receipt of your letter of the 27th ultimo, transmitting a copy of the Joint Resolution of the California Legislature ratifying the proposed Amendment to the Constitution of the United States, and in reply thereto I have to request that you furnish a certified copy of the Resolution under the seal of the State, which is necessary in order to carry out the provisions of Section 205 of the Revised Statutes of the United States".(*See* Letter from Knox to Jordan.)

202. When Wyoming Governor Joseph Carey telegraphed Philander Knox news that the Wyoming legislature had ratified the 16th Amendment on February 3, 1913, Philander Knox telegraphed in return as follows: "Replying to your telegram of 3rd you are requested to furnish a certified copy of Wyoming's ratification of Income Tax Amendment so there may be no question as to the compliance with Section 205 of Revised Statutes."(*See* Letter from Knox to Carey)

203. On February 15, 1913, a State department attorney, J. Rueben Clarke, informed Secretary of State Philander Knox, in reference to the State of Minnesota, "the secretary of the Governor merely informed the Department that the state legislature had ratified the proposed amendment." (*See* Rueben Clarke Memo)

204. In the official records deposited in the Archives of the United States, there is no certified copy of the resolution of the Minnesota legislature ratifying the 16th Amendment. (*See* National Book of state ratification documents: Minnesota)

205. In the documents possessed by the Archives of the

United States, there are no certified copies of the resolutions ratifying the 16th Amendment by California and Kentucky. (*See* National Book of state ratification documents: California and Kentucky)

206. The Kentucky Senate voted 22 to 9 against ratification of the 16th Amendment. (*See* Kentucky Senate Journal)

207. Mr. John Ashcroft is currently the Attorney General of the United States. (Common Knowledge.)

208. When Mr. Ashcroft was Governor of Missouri, the Missouri Supreme Court rendered the following decision in a case involving Mr. Ashcroft, that case being *Ashcroft v. Blunt*, 696 S.W.2d 329 (Mo. banc 1985), where the Missouri Supreme Court held:

> The senate and the house must agree on the exact text of any bill before they may send it to the governor. There may not be the slightest variance. The exact bill passed by the houses must be presented to and signed by the governor before it may become law (laying aside as not presently material alternative procedure by which a bill may become law without the governor's signature.) The governor has no authority to sign into law a bill which varies in any respect from the bill passed by the houses.

[*See Ashcroft v. Blunt*, 696 S.W.2d 329 (Mo. banc 1985)]

209. During hearings regarding the ratification of the 16th Amendment in Massachusetts, Mr. Robert Luce made the following statement to the Massachusetts Committee on Federal Relations: "Question by the committee: Are we able to change it? Mr. Luce: No, you must either accept or reject it." (*See* "The Law That Never Was," by Bill Benson: Statement by Luce to Committee of Federal Relations.)

210. On February 11, 1910, Kentucky Governor Augustus Wilson wrote a letter to the Kentucky House of Representatives wherein he stated as follows:

> This resolution was adopted without jurisdiction of the joint resolution of the Congress of the United States which had not been transmitted to and was not before the General Assembly, and in this resolution the words "on incomes" were left out of the resolution of the Congress, and if transmitted in this form would be void and would subject the Commonwealth to unpleasant comment and for these reasons and because a later resolution correcting the omission is reported to have passed both Houses, this resolution is returned to the House of Representatives without my approval.

(*See* Letter from Kentucky Governor Wilson to Kentucky House of Rep.)

211. No State may change the wording of an amendment proposed by Congress. (*See* "How Our Laws Are Made") (See Letter from Senator Hollings)

212. On February 15, 1913, J. Reuben Clarke, an attorney employed by the Department of State, drafted a memorandum to Secretary Knox wherein the following statements were made: "The resolutions passed by twenty-two states contain errors only of capitalization or punctuation, while those of eleven states contain errors in the wording" (page 7). "Furthermore, under the provisions of the Constitution a legislature is not authorized to alter in any way the amendment proposed by Congress, the function of the legislature consisting merely in the right to approve or disapprove the proposed amendment." (*See* Rueben Clarke Memo.)

213.The Sixteenth Amendment reads as follows:
"Article XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." (*See* U.S. Const. amend XVI.)

214. The Sixteenth Amendment does not read as follows:
"Article 16: The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and from any census or enumeration." (*See* Oklahoma's Resolution)

215. The Sixteenth Amendment does not read as follows: "Article XVI. Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several states, and without regard to census enumeration." (*See* California's Resolution)

216. The Sixteenth Amendment does not read as follows: "Article XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or renumeration." (*See* Illinois' Resolution)

217. The Sixteenth Amendment does not read as follows: "Article XVI. The Congress shall have power to lay and collect taxes from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." (*See* National Book of State Ratification Documents: Kentucky)

218. The Sixteenth Amendment does not read as follows: "The Congress shall have power to levy and collect taxes on income from whatever sources derived without apportionment among the several States, and without regard to any census or enumeration, which amendment was approved on the ---- day of July, 1909." (*See* Georgia's Resolution)

219. The Sixteenth Amendment does not read as follows: "Article XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several states, and without regard to any census of enumeration." (*See* Mississippi's Resolution)

220. The Sixteenth Amendment does not read as follows: "Article XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, with-out apportionment among the several states, and without regard to any census of enumeration:" (*See* Idaho's Resolution)

221. The Sixteenth Amendment does not read as follows: "Article XVI. The congress shall have power to levy and collect taxes on incomes, from whatever source derived, without apportionment among the

several states, and without regard to any census or enumeration, and did submit the same to the legislatures of the several states for ratification;" (*See* Missouri's Resolution)

222. State officials who prepare and send "official notice" of ratification of constitutional amendments to federal officials in Washington, D.C., do not have any authority to change the wording of the ratification resolution actually adopted by the State legislature.(*See*"How Our Laws Are Made.")

223. The following states were included on Knox's list of 38 states: Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Montana, New Jersey, New Mexico, North Dakota, Tennessee, Texas, Washington, and Wyoming. (*See* Knox's Proclamation)

224. The proposed 16th (income tax) Amendment was never properly and legally approved by the Georgia State Senate. (*See* The Law That Never Was, Volume I, pages 81-88)

225. The actions taken by the state legislatures of Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Montana, New Jersey, New Mexico, North Dakota, Tennessee, Texas, Washington, and Wyoming, in acting on the proposed 16th Amendment, were violative of certain provisions of their state constitutions, which were in effect AND CONTROLLING at the time those states purportedly ratified the 16th Amendment. (*See* The Law That Never Was, Volume 1)

226. The state of Tennessee violated Article II, Section 32 of the Tennessee Constitution by denying the people an opportunity to vote for their state legislators between the time the proposed 16th (income tax) Amendment to the U.S. Constitution was submitted to the Tennessee legislature and the time the legislature voted to approve the amendment. (*See* The Law That Never Was, Volume I, pages 213-217)

227. The state legislature of Tennessee violated Article II, Section 18 of the Tennessee Constitution by failing to read (and pass), on three different

days, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 213-217)

228. In voting to approve the income tax Amendment the Tennessee state legislature violated Article II, Sections 28 and 29 of the Tennessee Constitution, which prohibited the legislature from voting to impose an income tax on the people of Tennessee. (*See* The Law That Never Was, Volume I, pages 213-217)

229. In voting to approve the income tax Amendment the Arizona state legislature violated Article IX, Section 9 of the State Constitution, which prohibited the legislature from voting to pass any bill, which imposed a tax on the people of Arizona unless the amount of the tax was fixed in the bill. (*See* The Law That Never Was, Volume I, pages 243-250)

230. The state Senate of Arizona violated Article IV, Part 2, Section 12 of the State Constitution by failing to read, on three different days, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 243-250)

231. The presiding officer of the state Senate of Arizona violated Article IV, Part 2, Section 15 of the State Constitution by failing to sign, in open session, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 243-250)

232. In voting to approve the income tax Amendment the Arkansas state legislature violated Article XVI, Section 11 of the State Constitution, which prohibited the legislature from voting to pass any bill, which imposed a tax on the people of Arkansas, unless the bill specified the specific purpose to which the tax to be imposed under that bill would be applied. (*See* The Law That Never Was, Volume I, pages 219-225) (Ex. 048l).

233. The state Senate of Arkansas violated Article V, Section 22 of the State Constitution by failing to read, on three different days, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 219-225)

234. After the Governor vetoed the bill approving the proposed 16th (income tax) Amendment the Arkansas state legislature did not take the matter up again. (*See* The Law That Never Was, Volume I, pages 219-225)

235. The state Senate of California violated Article 4, Section 15 of the State Constitution by failing to read, on three different days, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 119-123)

236. The state Assembly of California violated Article 4, Section 15 of the State Constitution by failing to record the Yeas and Nays on the vote on the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Vol, I, pages 119-123)

237. The Senate and the House of the Colorado legislature violated Article V, Section 22 of the State Constitution by failing to read, on three different days, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 167-172)

238 The state Senate of Idaho violated Article III, Section 15 of the State Constitution by failing to read, section by section, just prior to the vote, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 101-105)

239. The state legislature of Idaho violated Article VI, Section 10 of the State Constitution by failing to send to the Governor the "approved" bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 101-105)

240. In voting to approve the 16th (income tax) Amendment the Illinois state Senate violated Article IV, Section 13 of the State Constitution, by failing to print the bill containing the proposed 16th (income tax) Amendment before the final vote was taken and by failing to read the bill on three different days. (*See* The Law That Never Was, Volume I, pages 51-53) (Ex. 048p)

242. In voting to approve the income tax Amendment the Kansas state legislature violated Article 11, Section 205 of the State Constitution, which prohibited the legislature from voting to pass any bill, which imposed

a tax on the people of Kansas, unless the bill specified the specific purpose to which the tax to be imposed under that bill would be applied. (*See* The Law That Never Was, Volume I, pages 161-166)

243. In voting to approve the income tax Amendment the Kansas state Senate violated Article 2, Section 128 of the State Constitution, by failing to record the vote on the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 161-166)

244. In voting to approve the income tax Amendment the Kansas state House of Representatives violated Article 2, Section 133 of the State Constitution, by failing to read, section by section, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 161-166)

245. In voting to approve the income tax Amendment the Louisiana state legislature violated Articles 224 and 227of the Louisiana Constitution, which prohibited the legislature from voting to impose a federal income tax on the people of Louisiana (*See* The Law That Never Was, Volume I, pages 257-260)

246. In voting to approve the income tax Amendment the Michigan state legislature violated Article X, Section 6 of the State Constitution, which prohibited the legislature from voting to pass any bill, which imposed a tax on the people of Michigan unless the bill specified the specific purpose to which the tax to be imposed under that bill would be applied. (*See* The Law That Never Was, Volume I, pages 179-183)

247. In voting to approve the 16th (income tax) Amendment the Mississippi state House of Representatives violated Article IV, Section 59 of the State Constitution, by failing to read, three times on three different days, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 55-60)

248. In voting to approve the 16th (income tax) Amendment the Mississippi state Senate violated Article IV, Section 59 of the State Constitution, by failing to read the bill, in full, immediately before the vote on its final passage. (*See* The Law That Never Was, Volume I, pages 55-60)

249. In voting to approve the income tax Amendment the Missouri state legislature violated Article X, Section 1 of the Missouri Constitution, which prohibited the legislature from voting to impose a federal income tax on the people of Missouri (*See* The Law That Never Was, Volume I, pages 191-194)

250. The Missouri state legislature violated Article V, Section 14 of the Missouri Constitution, which required the legislature to submit to the governor, the bill "approving" the proposed 16th (income tax) Amendment. (*See* The Law That Never Was, Volume I, pages 191-194)

251. In voting to approve the 16th (income tax) Amendment the Montana state House of Representatives violated Article V, Section 22 of the State Constitution by failing to print the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution, prior to the vote on its passage. (*See* The Law That Never Was, Volume I, pages 125-131)

252. In voting to approve the 16th (income tax) Amendment the presiding officer of the Montana state Senate violated Article V, Section 27 of the State Constitution by failing to publicly read, in open session, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution, just prior to signing the bill. (*See* The Law That Never Was, Volume I, pages 125-131)

253. In voting to approve the 16th (income tax) Amendment the New Mexico state legislature (both the Senate and the House), violated Article IV, Section 20 of the State Constitution requiring enrollment and engrossment, public reading in full, signing by the presiding officers and the recording of all those acts in the journals. (*See* The Law That Never Was, Volume I, pages 279-282)

254. In voting to approve the 16th (income tax) Amendment the New Mexico state House of Representatives violated Article IV, Section 15 of the State Constitution, by failing to read, three times on three different days, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See* The Law That Never Was, Volume I, pages 279-282)

255. In voting to approve the 16th (income tax) Amendment the North Dakota state legislature (both the Senate and the House), violated the Article II, Section 64 of the State Constitution, which requires re-enactment

and publication of amendments . (*See* The Law That Never Was, Volume I, pages 173-178)

256. In voting to approve the 16th (income tax) Amendment the North Dakota state legislature (both the Senate and the House), violated the Article II, Section 63 of the State Constitution, which required three readings of the bill, at length, on three separate days, (*See* The Law That Never Was, Volume I, pages 173-178)

257. In voting to approve the 16th (income tax) Amendment the Texas House of Representatives violated Article III, Section 37 of the State Constitution by voting on the bill before the bill was reported out of a Committee. (*See* The Law That Never Was, Volume I, pages 89-96)

258. In voting to approve the income tax Amendment the Texas state legislature violated Article III, Section 48 of the Texas Constitution, which prohibited the legislature from voting to impose a federal income tax on the people of Texas (*See* The Law That Never Was,Volume I, pages 89-96)

259. In voting to approve the 16th (income tax) Amendment the presiding officer of the Texas Senate violated Article III, Section 38 of the State Constitution by failing to publicly read, in open session, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution, just prior to signing the bill. (*See* The Law That Never Was, Volume I, pages 89-96)

260. In voting to approve the 16th (income tax) Amendment the Texas state legislature violated Article III, Section 33 of the State Constitution, which required the House to act first on all money bills. (*See* The Law That Never Was, Volume I, pages 89-96)

261. In voting to approve the 16th (income tax) Amendment the Washington state legislature violated Article VII, Section 2 of the State Constitution, which prohibited the legislature from imposing a tax upon the people of the state unless the tax was a uniform and equal rate of taxation. (*See* The Law That Never Was, Volume I, pages 113-118)

262. The Washington state legislature violated Articles III, Section 12 of the Washington Constitution, which required the legislature to submit to

the governor, the bill "approving" the proposed 16th (income tax) Amendment. (*See* The Law That Never Was, Volume I, pages 113-118)

263. In voting to approve the 16th (income tax) Amendment the Wyoming state legislature violated Article XV, Section 13 of the State Constitution, which prohibited the legislature from voting to pass any bill, which imposed a tax on the people of Wyoming unless the bill specified the specific purpose to which the tax to be imposed under that bill would be applied. (*See* The Law That Never Was, Volume I, pages 265-271)

264. In voting to approve the 16th (income tax) Amendment the Wyoming state legislature violated Article III, Section 20 of the State Constitution, by voting only on the title of the bill. (*See* The Law That Never Was, Volume I, pages 265-271)

265. The "income" tax at subtitle A of the Internal Revenue Code cannot be lawfully and constitutionally collected if the 16th Amendment is not a valid amendment to the Constitution of the United States. [*See Parker v. C.I.R.*, 724 F 2d 469 (5th Cir. 1984)]

266. The income taxes imposed by Subtitle A are not apportioned, so if the 16th Amendment was not ratified, the taxes imposed by Subtitle A are not constitutional under *Pollock v. Farmers Loan & Trust*, 158 U.S. 601 (1895).

267. In 1913, Congress passed the following income tax act:

> A. Subdivision 1. That there shall be levied, assessed, collected and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, a tax of 1 per centum . . . and a like tax shall be assessed, levied, collected, and paid annually upon the entire net income from all property owned and of every business, trade, or profession carried on in the United States by persons residing elsewhere.

[*See* 38 Stat. 166 (Oct. 3, 1913)]

268. Mr. Brushaber challenged this income tax as being unconstitutional. [*See Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1 (1916)]

269. In the *Brushaber* decision, the United States Supreme Court held that the tax on income was an excise tax. [(*See Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1, 18-19 (1915); *Stanton v. Baltic Mining Co.*, 240 U.S. 103, 112 (1916)]

270. In the *Brushaber* decision, the United States Supreme Court held that the purpose of the 16th Amendment was to prevent the income tax from being taken out of the class of excise taxes where it rightly belonged. [*See Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1, 18-19 (1915)]

271. In the *Brushaber* decision, the United States Supreme Court discarded the notion that a direct tax could be relieved from apportionment, because to so hold would destroy the two great classifications of taxes. [*See Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1, 18-19 (1915)]

272. The Union Pacific Railroad was a United States Corporation located in the Utah Territory. [*See Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1, 18-19 (1915)]

273. The privilege of operating as a corporation can be taxed as an excise. (*See* Flint v. Stone Tracy Co., 226 U.S. 107)

274. In *Eisner v. Macomber*, 252 U.S. 189, 205-206 (1920), the United States Supreme Court held a tax on income was a direct tax, but could be imposed without apportionment because the 16th Amendment gave Congress the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration. [*See Eisner v. Macomber*, 252 U.S. 189, 205-206 (1920)]

275. The United States Supreme Court stated in *Eisner*:

> a. The Sixteenth Amendment must be construed in connection with the taxing clauses of

the original Constitution and the effect attributed to them before the Amendment was adopted. In *Pollock v. Farmers' Loan and Trust Co.*, 158 U.S. 601, under the Act of August 27, 1894, c. 349, section 27, 28 Stat. 509, 553, it was held that taxes upon rents and profits of real property were in effect direct taxes upon the property from which such income arose, imposed by reason of ownership; and that Congress could not impose such taxes without apportioning them among the States according to population, as required by Art. I, section 2, c1.3, and section 9, cl.4, of the original Constitution.

b. Afterwards, and evidently in recognition of the limitation upon the taxing power of Congress thus determined, the Sixteenth Amendment was adopted, in words lucidly expressing the object to be accomplished: "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." As repeatedly held, this did not extend the taxing power to new subjects, but merely removed the necessity which otherwise might exist for an apportionment among the States of taxes laid on income. (Citing *Brushaber v. Union Pacific R.R. Co.*, 240 U.S. at 17-19) (other citations omitted).

c. A proper regard for its genesis, as well as its very clear language, requires also that this Amendment shall not be extended by loose construction, so as to repeal or modify, except as applied to income, those provisions of the Constitution that require an apportionment according to population for direct taxes upon property, real and personal. This limitation still has an appropriate and important function, and is not

> to be over ridden by Congress or disregarded by the courts.
>
> d. In order, therefore, that the clauses cited from Article I of the Constitution may have proper force and effect, save only as modified by the Amendment, and that the latter also may have proper effect, it becomes essential to distinguish between what is and what is not "income" as the term is there used; and to apply the distinction, as cases arise, according to truth and substance, without regard to form. Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised.

(*See Eisner v. Macomber,* 252 U.S. 189, 205-206 (1920).)

276. The U.S. Supreme Court, in the Sims case, declared that wages and salaries are property. (*See Sims v. U.S.*, 359 U.S. 108) (1959)

277. The last time the U.S. Supreme Court addressed the question of whether the income tax was a direct tax or an indirect tax was in the *Eisner* case.

278. The U.S. Supreme Court, in *Eisner*, declared the income tax to be a direct tax.

279. The 5th Circuit Court of Appeals, in the *Parker* case, ruled that, "The sixteenth Amendment merely eliminates the requirement that the direct income tax be apportioned among the states…The sixteenth amendment was enacted for the express purpose of providing for a direct income tax." (*See Parker v. Commissioner,* 724 F2d 469, 471) (5th Cir. 1984)

280. The 7th Circuit Court of Appeals, in the Coleman case, held that an argument that the income tax was an excise tax was frivolous on its face and that the court declared, " The power thus long predates the Sixteenth

Amendment, which did no more than remove the apportionment requirement."
(*See Coleman v. Commissioner*, 791 F2d 68, 70) (7th Cir. 1986)

281. The 8th Circuit Court of Appeals, in the Francisco case, held that, "The cases cited by Francisco clearly establish that the income tax is a direct tax…."
(*See United States v. Francisco*, 614 F2d 617, 619) (8th Cir. 1980)

282**.** The 10th Circuit Court of Appeals, in the Lawson case, ruled that, "The Sixteenth Amendment removed any need to apportion income taxes among the states that otherwise would have been required by Article I, Section 9, clause 4." (*See U.S. v. Lawson* (1982), 670 F2d 923, 927.)

283. Judges in the Courts of Appeal for the Second Circuit take the position that the income tax is an indirect tax. [*See Ficalora v. C.I.R.*, 751 F.2d 85 (2nd Cir. 1984)]

284. Judges in the Courts of Appeal for the Fifth Circuit take the position that the income tax is a direct tax. [*See Lonsdale v. C.I.R.*, 661 F.2d 71 (5th Cir. 1984)]

285. When a law is ambiguous, it is unconstitutional and cannot be enforced under the "void for vagueness doctrine" because it violates due process protections guaranteed by the Fifth and Sixth Amendments as described by the Supreme Court in the following decisions:

- Origin of the doctrine (*See Lanzetta v. New Jersey*, 306 U.S. 451)
- Development of the doctrine (*See* *Screws v. United States*, 325 U.S. 91, *Williams v. United States*, 341 U.S. 97, and *Jordan v. De George*, 341 U.S. 223).

286. The "void for vagueness doctrine" of the Supreme Court was described in *U.S. v. DeCadena* as follows:

> **"The essential purpose** of the "void for vagueness doctrine" with respect to interpretation of a criminal statute, **is to warn individuals of the criminal consequences of their conduct**. ... Criminal statutes which fail to give due notice that an act

> has been made criminal before it is done are unconstitutional deprivations of due process of law."
>
> [*See* U.S. v. De Cadena, 105 F.Supp. 202, 204 (1952)] (emphasis added)

287. In 1894, the United States Constitution recognized two classes of taxes, direct taxes and indirect taxes. [*See Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429, aff. reh., 158 U.S. 601 (1895)]

288. In 1894, the United States Constitution, at Art. 1, Sec. 2, Clause 3 and Art. 1, Sec. 9, Clause 4, required apportionment of all direct taxes. [*See Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429, aff. reh., 158 U.S. 601 (1895)]

289. In 1894, the United States Constitution, at Art. 1, Sec. 8, Clause 1, required all indirect taxes to be uniform. [*See Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429, aff. reh., 158 U.S. 601 (1895)]

290. In 1894, no one doubted that an excise tax was an indirect tax as opposed to a direct tax. [*See Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429, aff. reh., 158 U.S. 601 (1895)]

291. In 1894 Congress passed the following income tax act:

> Sec. 27. That from and after the first day of January, eighteen hundred and ninety-five, and until the first day of January, nineteen hundred, there shall be assessed, levied, collected, and paid annually upon the gains, profits, and income received in the preceding calendar year by every citizen of the United States, whether residing at home or abroad, and every person residing therein, whether said gains, profits, or income be derived from any kind of property rents, interest, dividends, or salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, a tax of two per centum on the amount so derived over and above four thousand

> dollars, and a like tax shall be levied, collected, and paid annually upon the gains, profits, and income from all property owned and of every business, trade, or profession carried on in the United States. And the tax herein provided for shall be assessed, by the Commissioner of Internal Revenue and collected, and paid upon the gains, profits and income for the year ending the thirty-first day of December next preceding the time for levying, collecting, and paying said Tax.

[*See* 28 Stat. 509, c 349, Section 27, p. 553 (August 27, 1894)]

292. Mr. Pollock, a citizen of the State of Massachusetts, challenged the 1894 income tax on the grounds that the tax imposed was a direct tax that was not apportioned. [*See Pollock v. Farmers' Loan & Trust*, 157 U.S. 429, aff. reh., 158 U.S. 601 (1895)]

293. The majority of the justices of the United States Supreme Court found that the 1894 tax at Sec. 27 was a direct tax. [*See Pollock v. Farmers' Loan & Trust*, 158 U.S. 601, 618, 630-631 (1895)]

294. The minority of the justices of the United States Supreme Court in the *Pollock* case believed the 1894 tax at Sec. 27 was an indirect tax. [*See Pollock v. Farmers' Loan & Trust*, 157 U.S. 429, aff. reh., 158 U.S. 601 (1895)]

295. The United States Supreme Court held the 1894 income tax was unconstitutional as being in violation of the apportionment requirements for direct taxes. (*See Pollock v. Farmers' Loan & Trust*, 157 U.S. 429, aff. reh., 158 U.S. 601 (1895).) (Ex. 032, 033.)

296. In 1909, President Taft called a special session of Congress for the purpose of amending the apportionment requirement of income taxes. (*See* Taft's message.)

297. During the congressional debate on the income tax amendment, it was stated that the income tax would not touch one hair of a working man's head. (*See* .)

THE INTERNAL REVENUE CODE DOES NOT MAKE MOST AMERICANS LIABLE TO FILE A TAX RETURN AND PAY AN INCOME TAX.

298. The Internal Revenue Code is found at Title 26 of the United States Code. (*See* Title 26, United States Code, and index.)

299. Title 26 of the United States Code is broken down into Subtitles. (*See* Title 26, United States Code, index.)

300. Income taxes are set forth in Subtitle A of Title 26. (*See* 26 U.S.C. º 1; Title 26, United States Code, index.)

301. Subtitle A contains Sections 1 through 1563. (*See* Title 26, United States Code, index.)

302. Estate and gift taxes are set forth in Subtitle B of Title 26. (*See* Title 26, United States Code, index.)

303. Subtitle B contains Sections 2001 through 2704. (*See* Title 26, United States Code, index.)

304. Employment taxes are set forth in Subtitle C of Title 26. (*See* Title 26, United States Code, index.)

305. Subtitle C contains Sections 3101 through 3510. (*See* Title 26, United States Code, index.)

306. Miscellaneous excise taxes are set forth in Subtitle D of Title 26. (*See* Title 26, United States Code, index.)

307. Subtitle D contains Sections 4001 through 5000. (*See* Title 26, United States Code, index.)

308. Alcohol, tobacco, and certain other excise taxes are set forth in Subtitle E of Title 26. (*See* Title 26, United States Code, index.)

309. Subtitle E contains Sections 5001 through 5882. (*See* Title 26, United States Code, index.)

310. Procedures and administration to be followed with respect to the different taxes addressed in Subtitles A through E are set forth in Subtitle F of Title 26. (*See* Title 26, United States Code, index.)

311. Subtitle F contains Sections 6001 through 7873. (*See* Title 26, United States Code, index.)

312. Congress enacted the Privacy Act at 5 U.S.C. º 552a(e)(3). (*See* 5 U.S.C. º 552a(e)(3), credits and historical notes.)

313. When the Internal Revenue Service requests information from an individual, the Privacy Act requires the IRS to inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual –

(a) the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(b) the principal purpose or purposes for which the information is intended to be used;

(c) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(d) the effects on him, if any, of not providing all or any part of the requested information.

(*See* 5 U.S.C. 552a(e)(3); IRS Form 1040 U.S. Individual Income Tax Return Instruction Booklet, Privacy Act Notice set out therein.)

314. Congress enacted the Paperwork Reduction Act at 44 U.S.C. 3504(g)(2). (*See* 44 U.S.C. 3504(g)(2), credits and historical notes.)

315. The Paperwork Reduction Act requires the Director of the Office of Management and Budget to include with any information requests, a statement to inform the person receiving the request why the information is

being collected, how it is to be used, and whether responses to the request are voluntary, required to obtain a benefit, or mandatory. [*See* 44 U.S.C. 3504(c)(3)(C)]

316. The Internal Revenue Service complies with the Privacy Act and Paperwork Reduction Act by setting out the required statements on the IRS Form 1040 Instruction Booklet. (*See* IRS Form 1040 U.S. Individual Income Tax Return Instruction Booklet, Privacy Act Notice set out therein; 26 C.F.R. 602.101.)

317. The Privacy Act and Paperwork Reduction Act statements which the Internal Revenue Service currently uses with respect to the federal income tax state that: "Our legal right to ask for information is Internal Revenue Code Sections 6001, 6011, 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections." (IRS Form 1040 U.S. Individual Income Tax Return Instruction Booklet, Privacy Act Notice set out therein.)

318. Internal Revenue Code Section 6001 states: "Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with Section 6053(c) and copies of statements furnished by employees under Section 6053(a)." (*See* 26 U.S.C. 6001.)

319. Internal Revenue Code Section 6011 states: "(a) General Rule. When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations . . .(g) Income, estate and gift taxes. For requirement that returns

of income, estate, and gift taxes be made whether or not there is tax liability, see subparts B and C." (*See* 26 U.S.C. 6011.)

320. Subparts B and C referred to at Internal Revenue Code Section 6011(g) contain Internal Revenue Code Sections 6012 through 6017a. (*See* 26 U.S.C. 6011(g); Title 26, United States Code, index.)

321. Congress displayed its knowledge of how to make someone "liable for" a tax at 26 U.S.C. 5005, which states that: "(a) The distiller or importer of distilled spirits shall be liable for the taxes imposed thereon by section 5001(a)(1)." (*See* 26 U.S.C. 5005.)

322. Congress displayed its knowledge of how to make someone liable for a tax at 26 U.S.C. 5703, which states that: "(a)(1) The manufacturer or importer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed therein by section 5701." (*See* 26 U.S.C. 5703.)

323. The persons made liable at Internal Revenue Code Sections 5005 and 5703, for the taxes imposed at Internal Revenue Code Sections 5001(a)(1) and 5701, respectively, are the persons described at Sections 6001 and 6011 required to make returns and keep records. (*See* 26 U.S.C. Sections 5005, 5703, 5001(a)(1), 5701, 6001, and 6011.)

324. Section 1461 is the only place in Subtitle A of the Internal Revenue Code where Congress used the words: "liable for.' (*See* 26 U.S.C. 1461; Title 26, United States Code, in its entirety.)

325. The person made liable by Congress at Section 1461 is a withholding agent for nonresident aliens. (*See* 26 U.S.C. 1461.)

326. There is a canon of statutory construction, "expressio unius est exclusio alterius", which means the express mention of one thing means the implied exclusion of another. (*See* Black's Law Dictionary, 6th Ed., West Publishing Co. 1990, p. 581.)

327. Congress could have, but did not, make anyone else other than the withholding agent referred to in Section 1461, "liable for" any income tax imposed in Subtitle A. (*See* 26 U.S.C. 1461; Title 26, United States Code, in its entirety.)

328. Up until 1986, the statement required by the Privacy and Paperwork Reduction Acts set out in the IRS Form 1040 instruction booklet, mentioned only Internal Revenue Code Sections 6001 and 6011 as the authority to request information. (*See* IRS Form 1040 instruction booklet, 1985 ed.; IRS Form 1040 U.S. Individual Income Tax Return Instruction Booklet, Privacy Act Notice set out therein, current ed.)

329. The United States Supreme Court has held in *C.I.R. v. Acker*, 361 U.S. 87, 89 (1959), and in *U.S. v. Calamaro*, 354 U.S. 351, 358-359 (1957), that a regulation that purports to create a legal requirement not imposed by Congress in the underlying statute is invalid. [*See C.I.R. v. Acker*, 361 U.S. 87, 89 (1959)*; U.S. v. Calamaro*, 354 U.S. 351, 358-359 (1957)]

330. 26 CFR 1.1-1 uses the following phrase:

> **"...all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States."**

(*See* 26 CFR 1.1-1)

331. The statute the above regulation, 26 CFR §1.1-1 implements, which is 26 U.S.C. §1, nowhere uses the word "liable" to describe the taxes imposed in that section 1. **(***See* 26 U.S.C. 1)

332. Because the corresponding statute in 26 U.S.C. §1 *does not* use the word "liable" or "liable to", then the implementing regulation for the section, 26 CFR §1.1-1 cannot, which makes the implementing regulation imposing the otherwise nonexistent liability invalid and unenforceable. (*Common knowledge*)

333. There is no statute anywhere in Subtitle A of the Internal Revenue Code which makes any person *liable* for the tax imposed in 26 U.S.C. §1 or 26 U.S.C. §871. (*See* 26 U.S.C. §1) (*See* 26 U.S.C. §871)

334. 26 CFR §1.1441-1 defines the term "individual" to mean the following:

> **26 CFR 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.**

(c) Definitions

(3) Individual.

(i) Alien individual.

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

(ii) Nonresident alien individual.

The term nonresident alien individual means a person described in section 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under Sec. 301.7701(b)-1(d) of this chapter. An alien individual who has made an election under section 6013 (g) or (h) to be treated as a resident of the United States is nevertheless treated as a nonresident alien individual for purposes of withholding under chapter 3 of the Code and the regulations there under.

(*See* 26 CFR §1.1441-1)

335. There is no other place anywhere in the Internal Revenue Code or 26 CFR where the word "individual" is defined.

336. 26 CFR §1.1441-1 is the definition for the term "individual" that appears at the top of the IRS form 1040 in the phrase "U.S. Individual Income Tax Return". (*See* 26 CFR §1.1441-1) (*See* IRS Form 1040 U.S. Individual Income Tax Return.)

337. IRS form 1040NR is the form required to be used by nonresident aliens. (*See* IRS form 1040NR)

338. If Form 1040NR is used for nonresident aliens, the only thing left that an "individual" appearing in 26 U.S.C. §7701(a)(1) can be is an "alien" based on 26 CFR §1.1441-1. [*See* 26 U.S.C. 7701(a)(1)]

339. The term "citizen of the United States" is defined as follows in 26 CFR §31.3121(e) State, United States, and citizen.

> (b)…The term 'citizen of the United States' includes a citizen of the `Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

[*See* 26 CFR §31.3121(e)]

THE INTERNAL REVENUE CODE IS VOID FOR VAGNESS

340. The word "includes" is defined in 26 U.S.C. §7701(c) as follows:

> TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.
>
> Sec. 7701. - Definitions
>
> (c) Includes and including
>
> The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

341. The word "includes" is defined by the Treasury in the Federal Register as follows:

> **Treasury Definition 3980**, Vol. 29, January-December, 1927, pgs. 64 and 65 defines the words includes and including as:
>
> "(1) To comprise, comprehend, or embrace…(2) To enclose within; contain; confine…**But granting that the word 'including' is a term of enlargement, it is clear that it only performs that office by introducing the specific elements constituting the enlargement. It thus, and thus only, enlarges the otherwise more limited, preceding general**

language…The word 'including' is obviously used in the sense of its synonyms, comprising; comprehending; embracing."

342. The definition of the word "includes" found in Black's Law Dictionary, Sixth Edition, page 763 is as follows:

"**Include**. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227, 228."

343. If the meaning of the word "includes" as used in the Internal Revenue Code is "and" or "in addition to" as described above, then the code cannot define or confine the precise meaning of the following words that use "include" in their definition:

- "State" found in 26 U.S.C. §7701(a)(10) and 4 U.S.C. §110
- "United States" found in 26 U.S.C. §7701(a)(9)
- "employee" found in 26 U.S.C. §3401(c) and 26 CFR §31.3401(c)-1 Employee
- "person" found in 26 CFR 301.6671-1 (which governs who is liable for penalties under Internal Revenue Code)

344. If the meaning of "includes" as used in the definitions above is "and" or "in addition to", then the code cannot define any of the words described, based on the definition of the word "definition" found in Black's Law Dictionary, Sixth Edition, page 423:

definition: (Black's Law Dictionary, Sixth Edition, page 423) A description of a thing by its properties; an explanation of the meaning of a word or term. **The process of stating the exact**

meaning of a word by means of other words. Such a description of the thing defined, including all essential elements and excluding all nonessential, as to distinguish it from all other things and classes."

345. Asent concrete definitions of the above critical words identified in question 417, the meaning of the words becomes ambiguous, unclear, and subjective.

346. When the interpretation of a statute or regulation is unclear or ambiguous, then the by the rules of statutory construction, the doubt should be resolved in favor of the taxpayer as indicated in the cite from the Supreme Court below:

> "In view of other settled rules of statutory construction, which teach that a law is presumed, in the absence of clear expression to the contrary, to operate prospectively; that, **if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer..." Hassett v. Welch**., 303 US 303, pp. 314 - 315, 82 L Ed 858. (1938) (emphasis added)

347. In the majority of cases, doubts about the interpretation of the tax code are resolved in favor of the taxpayer by any federal court as required by the Supreme Court above.

348. An ambiguous meaning for a word violates the requirement for due process of law by preventing a person of average intelligence from being able to clearly understand what the law requires and does not require of him, thus making it impossible at worst or very difficult at best to know if he is following the law.

349. Black's Law Dictionary, Sixth Edition, page 500, under the definition of "due process of law" states the following:

> The concept of "**due process of law" as it is embodied in Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious** and that the means selected shall have a reasonable and substantial relation to the object being sought.

350. If the definition of the word "includes" means that it is used synonymously with the word "and" or "in addition to", then it violates the requirement for due process of law found in the Fifth Amendment.

351. The violation of due process of law created by the abuse of the word "includes" found in the preceding question creates uncertainty, mistrust, and fear of citizens towards their government because of their inability to comprehend what the law requires them to do.

352. The violation of due process caused by the abuse of the word "includes" (in this case, making it mean "and" or "in addition to) identified above could have the affect of extending the perceived jurisdiction and authority of the federal government to tax beyond its clear limits prescribed in the U.S. Constitution.

353. An abuse of the word includes to mean "and" or "in addition to" indicated above could have the affect of increasing and possibly even maximizing income tax revenues to the U.S. government through the violation of due process, confusion, and fear that it creates in the citizenry.

354. Fear and confusion on the part of the citizenry towards their government and violation of due process by the government are characterized by most rational individuals as evidence of tyranny and treason against citizens.

355. The U.S. Constitution provides the following definition for "treason" in Article III, Section 3, Clause 1:

> ***"Treason against the United States shall consist only of levying war against them, or adhering to their enemies…"***

356. Black's Law Dictionary, Sixth Edition, page 1583, provides the following definition for "war":

> *"Hostile contention by means of armed forces, carried on between nations, states, or rulers, or between citizens in the same nation or state."*

357. Agents of the IRS involved in seizures of property use guns and

arms against citizens, making the confrontation an armed confrontation.

358. IRS seizures can and do occur without court orders, warrants, or due process required by the Fourth Amendment and at the point of a gun.

359. Property seizures as described above amount to an act of war of the government against the citizens.

360. Acts of war against citizens, when not based on law, are treasonable offenses punishable by execution.

361. Violation of due process produces *injustice* in society, which is why the founding fathers required us to have a Fifth Amendment.

362. The purpose of the government is to write laws to *prevent*, rather than *promote*, injustice in society, and thereby protect the right to life, liberty, property, and pursuit of happiness of *all citizens equally*.

UNLESS ONE IS A FOREIGNER WORKING HERE OR A CITIZEN OF THE U.S.A. EARNING HIS MONEY ABROAD HE IS NOT LIABLE FOR THE INCOME TAX"

363. The term "from whatever source derived" as used in the Sixteenth Amendment does *not* mean that the source of income or the situs for taxation is *irrelevant or inconsequential in determining taxable income*.

364. Interpreting the phrase "from whatever source derived" to mean that the source or situs is irrelevant, makes the federal income tax applicable to any country or location in the world and renders 26 U.S.C. §861 and 26 U.S.C. §862 irrelevant and unnecessary, which clearly is an irrational and nonsensical conclusion to reach.

365. The federal income tax applies only to taxable income, which, generally speaking, is "gross income" minus allowable deductions.

366. The federal income tax regulations generally define "gross income" to mean "all income from whatever source derived, unless excluded by law." as follows:

26 CFR § 1.61-1(a):

> (a) General definition. Gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash. Section 61 lists the more common items of gross income for purposes of illustration. For purposes of further illustration, Sec. 1.61-14 mentions several miscellaneous items of gross income not listed specifically in section 61. Gross income, however, is not limited to the items so enumerated.

367. There are certain types of income which Congress has exempted by statute as identified in 26 CFR §1.61-1(a).

368. There are other types of income not enumerated above which are not exempted by statute, but are nonetheless excluded by law, for income tax purposes, because they are excluded from taxation by the Constitution itself.

26 CFR § 39.21-1 (1956):

> (a) The tax imposed by chapter 1 is upon income. Neither income exempted by statute or fundamental law, nor expenses incurred in connection therewith, other than interest, enter into the computation of net income as defined by section 21.

26 CFR § 39.22(b)-1 (1956):

> Certain items of income specified in section 22(b) are exempt from tax and may be excluded from gross income. These items, however, are exempt only to the extent and in the amount specified. No other items may be excluded from gross income except (a) those items of income which are, under the Constitution, not taxable by the Federal Government; (b) those items of income which are exempt from tax on income under the provisions of any act of Congress still in effect; and (c) the income excluded under the provisions of the Internal Revenue Code (see particularly section 116).

369. The phrase "fundamental law" indicated above in the older regulations means the U.S. Constitution.

370. The above older regulation, 26 CFR §39.21-1 (1956) and 26 CFR § 39.22(b)-1 (1956) has never been explicitly repealed or superceded by newer regulations and is still in force.

371. The regulations under 26 U.S.C. §863 state:

> 26 CFR § 1.863-1(c)
> "**Determination of taxable income**. The taxpayer's taxable income from sources **within or without** the United States **will be determined under the rules of Secs. 1.861-8 through 1.861-14T** for determining taxable income from sources **within** the United States."

372. 26 USC § 61 lists some of the more common "items" of income which are taxable, such as compensation for services, interest, and dividends, among others. Section 1.861-8(d)(2) of the federal income tax regulations are to be consulted in determining in which situations these "items" of income are excluded for federal income tax purposes?

> 26 CFR § 1.861-8(d)(2)
> (2) Allocation and apportionment to exempt, excluded, or eliminated income. [Reserved] For guidance, see Sec. 1.861-8T(d)(2).

373. 26 CFR § 1.861-8T(d)(2) of the regulations lists several types of income which are, quote, not considered to be exempt, eliminated, or excluded income, end quote as follows:

> 26 CFR § 1.861-8T(d)(2)(iii)
> (iii) Income that is not considered tax exempt. The following items are not considered to be exempt, eliminated, or excluded income and, thus, may have expenses, losses, or other deductions allocated and apportioned to them:
> (A) In the case of a foreign taxpayer (including a foreign sales corporation (FSC)) computing its effectively connected income, gross income (whether domestic or foreign source) which is not effectively connected to the conduct of a United States trade or business;
> (B) In computing the combined taxable income of a DISC or FSC and its related supplier, the gross income of a DISC or a FSC;
> (C) For all purposes under subchapter N of the Code, including the computation of combined taxable income of a possessions corporation and its affiliates under section 936(h), the gross income of a possessions corporation for which a credit is allowed under section 936(a); and
> (D) Foreign earned income as defined in section 911 and the regulations thereunder (however, the rules of Sec. 1.911-6 do not require the allocation and apportionment of certain deductions, including home mortgage interest, to foreign earned income for purposes of determining the deductions disallowed under section 911(d)(6)).

374. Only income derived from certain activities related to international or foreign commerce are included on that list of non-exempt types of income appearing in 26 CFR § 1.861-8T(d)(2)(iii) above.

375. The domestic income of most U.S. citizens is absent, and therefore excluded, from the list appearing in 26 CFR § 1.861-8T(d)(2)(iii).

376. 26 USC § 861(b), and the related regulations beginning at 26 CFR § 1.861-8, the sections to use to determine one's taxable income from sources within the United States, regardless of citizenship and residency.

377. For U.S. citizens living and working exclusively in the 50 states and receiving all income from within the 50 states, that 26 U.S.C. §861(b) and related regulations beginning at 26 CFR §1.861-8 do not show such income to be taxable.

378. "Items" of income are identified in 26 U.S.C. §61 while "sources" of income are identified in 26 U.S.C. §861 and 26 U.S.C. §862.

PEOPLE ARE NOT REQUIRED TO FILE A FORM 1040 BECAUSE IT DOES NOT HAVE A VALID OMB CONTROL NUMBER AS REQUIRED BY THE PAPERWORK REDUCTION ACT and ADMINISTRATIVE PROCEDURES ACT REGULATIONS

379. The Paperwork Reduction Act, 44 U.S.C. 3501, et seq., mandates that forms and regulations of federal agencies that require the provision of information must bear and display OMB control numbers. (*See* 44 U.S.C. 3501, *et seq.*)

380. 1 C.F.R. 21.35 requires that OMB control numbers shall be placed parenthetically at the end of a regulation or displayed in a table or codified section. (*See* 1 C.F.R. 21.35.)

381. The following tax regulations contain OMB control numbers at the end of these regulations:

26 C.F.R. 1.860-2	(Exhibit 115)
26 C.F.R. 1.860-4	(Exhibit 116)
26 C.F.R. 1.897-1	(Exhibit 117)
26 C.F.R. 1.901-2	(Exhibit 118)
26 C.F.R. 1.1445-7	(Exhibit 119)
26 C.F.R. 1.6046-1	(Exhibit 122)
26 C.F.R. 1.6151-1	(Exhibit 124)
26 C.F.R. 1.6152-1	(Exhibit 125)
26 C.F.R. 1.9200-2	(Exhibit 126)
26 C.F.R. 31.3401(a)(8)(A)-1	(Exhibit 127)
26 C.F.R. 31.3501(a)-1T	(Exhibit 128)
26 C.F.R. 301.6324A-1	(Exhibit 129)
26 C.F.R. 301.7477-1	(Exhibit 130)

382. 26 U.S.C. 6012 does not specify where tax returns are to be filed. (*See* 26 U.S.C. 6012.)

383. 26 U.S.C. 6091 governs the matter of where tax returns are to be filed. (*See* 26 U.S.C. 6091.)

384. By the plain language of Section 6091, regulations must be promulgated to implement this statute. (*See* 26 U.S.C. 6091.)

385. In 5 U.S.C. º 551, a "rule" is defined as:

> "(4) 'rule' means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency . . . ."

(*See* 5 U.S.C. 551.)

386. 5 U.S.C. 552 describes in particular detail various items which must be published by federal agencies in the Federal Register, as follows:

"(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public--

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and content of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision or repeal of the foregoing."

(*See* 5 U.S.C. 552.)

387. The Department of the Treasury as well as the IRS acknowledge the publication requirements of the Administrative Procedure Act in 31 C.F.R. 1.3 and 26 C.F.R. 601.702. (*See* 31 C.F.R. 1.3; 26 C.F.R. 601.702.)

388. The Commissioner of Internal Revenue promulgated the Treasury Regulation set out at 26 C.F.R. 602.101 to collect and display the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. (*See* 26 C.F.R. 602.101.) (Ex. 006.)

389. The Internal Revenue Service intended that 26 C.F.R. 602.101 comply with the requirements of OMB regulations implementing the Paperwork Reduction Act of 1980, for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations. (*See* 26 C.F.R. 602.101.)

390. 26 C.F.R. 602.101(c) displays a table (the "Table") which on the left side lists the CFR part or section where the information to be collected by the Internal Revenue Service is identified and described, and on the right side, lists the OMB control number assigned to the OMB-approved form to be used to collect the information so identified and described. [*See* 26 C.F.R. 602.101(c)]

391. The Table displayed at 26 C.F.R. 602.101 in the 1994 version of the Code of Federal Regulations lists 1.1-1 as a CFR part or section that identifies and describes information to be collected by the Internal Revenue Service. [*See* 26 C.F.R. 602.101 (1994)]

392. 26 C.F.R. 1.1-1 relates to the income tax imposed on individuals by 26 U.S.C. º 1. (*See* 26 C.F.R. 1.1-1; 26 U.S.C. 1.)

393. The OMB control number assigned to the form to be used to collect the information identified and described at 26 C.F.R. 1.1-1 is 1545-0067. [*See* 26 C.F.R. 602.101(c)]

394. The OMB control number 1545-0067 is assigned to the IRS Form 2555. (*See* IRS Form 2555.)

395. The IRS Form 2555 is titled "Foreign Earned Income". (*See* IRS Form 2555.)

396. The IRS Form 2555 is used to collect information regarding foreign earned income. (*See* IRS Form 2555.)

397. The OMB control number assigned to the IRS Form 1040 Individual Income Tax Return is 1545-0074. (*See* IRS Form 1040 U.S. Individual Income Tax Return.)

398. The Table set out at 26 C.F.R. 602.101 has never displayed the OMB control number 1545-0074 as being assigned to the collection of individual income tax information identified and described by 26 C.F.R. 1.1-1. (*See* 26 C.F.R. 602.101(c), current and all historical versions.)

399. The OMB has not approved the IRS Form 1040 U.S. Individual Income Tax Return as the proper form on which to make the return of individual income tax information identified and described at 26 C.F.R. º 1.1-1. [(*See* 26 C.F.R. 602.101(c)]

400. The Table displayed at 26 C.F.R. 602.101 in the 1995 version of the Code of Federal Regulations does not list 1.1-1 as a CFR part or section that identifies and describes information to be collected by the Internal Revenue Service. (*See* 26 C.F.R. 602.101(c) (1995).)

401. The Internal Revenue Service caused the entry for 1.1-1 to be deleted from 26 C.F.R. 602.101, by publishing the deletion at 59 FR 27235, on May 26, 1994. (*See* 26 C.F.R. 602.101; 59 FR 27235.)

401. The published deletion was accomplished under the supervision of Internal Revenue Service employee Cynthia E. Grigsby, Chief, Regulations Unit, Assistant Chief Counsel (Corporate). (*See* 26 C.F.R. 602.101; 59 FR 27235.)

THE IRS ROUTINELY VIOLATES 4TH AMENDMENT DUE PROCESS PROTECTIONS OF AMERICANS BY SEIZING ASSETS WITHOUT LAWFUL AUTHORITY OR A COURT ORDER

402. 26 U.S.C. §6331 is the alleged authority by which distraint in the collection of Subtitle A income taxes against individuals is instituted. (*See* 26 U.S.C. §6331)

403. 26 U.S.C. §6331(a) identifies the only entities against whom distraint may be instituted. (*See* 26 U.S.C. §6331(a)) (Ex. 401)

404. 26 U.S.C. §6331(a) identifies that levy may be made against only the following individuals:

> (a)...Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.
>
> [*See* 26 U.S.C. §6331(a)]

405. 26 CFR §31.3401(c) identifies the definition of "employee" as:

> "...the term [employee] *includes* officers and employees, whether elected or appointed, **of the United States, a [federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any agency or**

> **instrumentality of any one or more of the foregoing**. The term 'employee' also includes an **officer of a corporation**."
>
> [*See* 26 CFR §31.3401(c)]

406. IRS Form 668-A(c)(DO) is the Notice of Levy form routinely delivered to private, nongovernmental employers by the IRS to institute distraint against their employees. [*See* IRS Form 668-A(c)(DO)]

407. The reverse side of IRS Form 668-A(c)(DO) shows 26 U.S.C. §6331 but has paragraph (a) removed. [*See* IRS Form 668-A(c)(DO)]

408. The removal of 26 U.S.C. §6331(a) from the reverse side of IRS Form 668-A(c)(DO) could lead private employers who do not employ federal "employees" to incorrectly honor a Notice of Levy.

409. Inclusion of 26 U.S.C. §6331(a) on the reverse side of the IRS Form 668-A(c)(DO) would make it less likely to cause private employers to misinterpret or misapply the law in processing an IRS Notice of Levy.

410. The Fourth Amendment requires that all seizures of property by the U.S. government must be preceded by service of a warrant upon the party whose property is to be seized.

411. The Fourth Amendment requires that the person who signs or issues the warrant authorizing seizure must be a neutral magistrate as indicated in the annotated Fourth Amendment:

> **Issuance by Neutral Magistrate** .--In numerous cases, the Court has referred to the necessity that warrants be issued by a "judicial officer" or a "magistrate."1[1] "The point of the Fourth Amendment, which often is not grasped by zealous officers, is not that it denies law enforcement the support of the usual inferences which reasonable men draw from evidence. Its protection consists in requiring that those inferences be drawn

> by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime. Any assumption that evidence sufficient to support a magistrate's disinterested determination to issue a search warrant will justify the officers in making a search without a warrant would reduce the Amendment to a nullity and leave the people's homes secure only in the discretion of police officers."2[2] These cases do not mean that only a judge or an official who is a lawyer may issue warrants, but they do stand for two tests of the validity of the power of the issuing party to so act. "He must be neutral and detached, and he must be capable of determining whether probable cause exists for the requested arrest or search."3[3] The first test cannot be met when the issuing party is himself engaged in law enforcement activities,4[4] but the Court has not required that an issuing party have that independence of tenure and guarantee of salary which characterizes federal judges. 5[5] And in passing on the second test, the Court has been essentially pragmatic in assessing whether the issuing party possesses the capacity to determine probable cause. 6[6]

(*See* http://caselaw.lp.findlaw.com/data/constitution/amendment04/02.html)

412. The IRS routinely seizes property from citizens without first litigating to obtain a warrant from a neutral magistrate.

413. The Supreme Court said that persons are entitled to a due process hearing prior to the seizing of property as follows:

> "The right to a prior hearing has long been recognized by this Court [Supreme Court] under the Fourteenth and Fifth Amendments…[T]he court has traditionally insisted that, whatever its form, opportunity for that hearing must be provided before the deprivation at issue takes place."

See Bell v Burson, 402 U.S. 535,542, Wisconsin v. Constantineau, 400 U.S. 433, Goldberg v. Kelly, 397 U.S. 254, Armstrong v. Manzo, 380 U.S. 551, United States v. Illinois Central R. Co.

414. The due process hearing prior to seizure must occur at the point where the seizure of property can be prevented as follows:

> "If the right to notice and a hearing is to serve its full purpose, it is clear that it must be granted at a time when the deprivation can still be prevented. At a later hearing, an individual's possessions can be returned to him if they were unfairly or mistakenly taken in the first place. Damages may even be awarded him for wrongful deprivation. But no later hearing and no damage award can undo the fact that the arbitrary taking that was subject to the right of due process has already occurred. This Court [the Supreme Court] has not embraced the general proposition that a wrong may be done if it can be undone." (See **Stanley v. Illinois**, 405 U.S. 645, 647, 31 L.Ed.2d 551, 556,.Ct. 1208 (1972)

415. 26 U.S.C. §7805(a) authorizes and empowers the Secretary of the Treasury as follows:

> Sec. 7805. - Rules and regulations
>
> (a) Authorization
>
> Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, **the Secretary shall prescribe all needful rules and regulations for the enforcement of this title,** including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

[See 26 U.S.C. §7805(a)]

416. There are no implementing regulations applicable to Part 1 of Title 26 of the Code of Federal Regulations which authorize assessment of the tax imposed under 26 U.S.C. §1 or 26 U.S.C. §871 by other than the taxpayer filling out the form.

417. There are no implementing regulations applicable to Part 1 of Title 26 of the Code of Federal Regulations which require record keeping for the tax imposed under 26 U.S.C. §1 or 26 U.S.C. §871 by other than the taxpayer filling out the form.

418. There are no implementing regulations applicable to Part 1 of Title 26 of the Code of Federal Regulations which authorize IRS collection of the tax imposed under 26 U.S.C. §1 or 26 U.S.C. §871.

419. There are no implementing regulations applicable to Part 1 of Title 26 of the Code of Federal Regulations which authorize imposition by the government of penalties or interest for nonpayment of the tax imposed under 26 U.S.C. §1 or 26 U.S.C. §871.

THE IRS ROUTINELY VIOLATES CITIZENS' DUE PROCESS RIGHTS BY WILLFULLY AND INTENTIONALLY MANIPULATING TAXPAYERS' INDIVIDUAL MASTER FILES FOR THE PURPOSE OF CREATING TIME-BARRED ASSESSMENTS, CREATING AND PROVIDING FRAUDULENT CERTIFICATES OF OFFICIAL RECORDS TO THE COURT TO SUPPORT ILLEGAL ASSESSMENTS, MANIPULATING MASTER FILES TO SHORT PAY TAXPAYERS LEGAL INTEREST OWED BY THE GOVERNMENT, COLLECTING SOCIAL SECURITY FROM TAXPAYERS VIA LEVY IN DIRECT VIOLATION OF THE LAW,

WILLFULLY AND INTENTIONALLY CREATING FRAUDULENT PENALTY AND INTEREST AGAINST TAXPAYERS

420. The IRS is placing levies on taxpayers federal social security benefits in direct violation of the law. (*See* 42 U.S.C. Section407)

421. The IRS is exceeding the 15% lawful restriction on collection of continuing levies. (*See* 26 U.S.C. Section 6331.)

423. The IRS is making illegal time barred assessments and concealing those assessments by placing fraudulent information on taxpayer master files. (*See* Statutory requirements for a valid assessment)

424. The IRS is submitting fraudulent CERTIFICATES OF OFFICIAL RECORDS to the courts to substantiate lawful assessments. (*See* Certificate of official record data)

425. Admit that the IRS illegally transfers taxpayer payments from their master file to an account called “excess collections” for the purpose of creating fraudulent penalty and interest charges against the taxpayer.

426. The IRS illegally transfers taxpayer payments from their master file to an account called “excess collections” for the purpose of creating fraudulent penalty and interest charges against the taxpayer.

427. IRS collection division agents put accounting hold codes on taxpayers’ accounting modules which forces all entry of data to be inputted manually by the agents and prevents the computer from performing the taxpayers’ accounting according to its programming.

428. The IRS is short-paying taxpayers’ lawful interest owed to them by placing wrongful dates and codes on taxpayers’ master files (*See* interest owed to taxpayer) (*See* date of advance payment) (Ex. 149e)(Ex. 149f)

THE IRS ROUTINELY VIOLATES INDIVIDUALS’ ADMINISTRATIVE, STATUTORY DUE PROCESS RIGHTS

429. If an individual required to make a return under Section 6012(a) of the Internal Revenue Code fails to make the required return, the statutory procedure authorized by Congress for the determination of the amount of tax due is the "deficiency" procedure set forth at subchapter B of Chapter 63 of the Internal Revenue Code, commencing at Section 6211. (*See* 26 U.S.C. Sections 63, 6012(a), and 6211.)

430. After IRS has audited a taxpayer, and there is disagreement, the Code of Federal Regulations requires IRS to take certain procedural steps to ensure the TAXPAYER administrative level action for hearings on those disagreements, including an examination of the audit with the agent, followed by a meeting with the IRS' agent's supervisor, followed by a 30 day letter which sets out the IRS's disputed items with the TAXPAYER and an administrative appeal of the IRS' decision on the audit. (*See* 26 C.R.F.601.105 and 601.106)

431. The purpose of these administrative steps is to afford the TAXPAYER an opportunity to have his disputed audit resolved at the administrative level? In other words, that these are pre-court or pre-litigation steps, which are designed to help the People avoid the expensive procedure known as Tax Court?

432. If the dispute is not resolved at the administrative level, the taxpayer is forced into Tax Court.

433. IRS Publication 1, IRS Publication 5 and IRS Publication 556, are all given to the taxpayer during the audit through appeals procedure and that these publications state that these administrative, procedural (due process) steps are available to the TAXPAYER. (*See* IRS Publication 1, IRS Publication 5 and IRS Publication 556)

434. Tax Court is an extremely expensive remedy for the individual TAXPAYER.

435. The IRS is the only party that benefits as taxpayers are forced into Tax Court.

436. The Tax Court, in *Minahan v Commissioner 88 T.C. 492*, found that the taxpayer's right to attorney's fees on favorable outcome is

jeopardized if the administrative procedures are not exhausted. (*See* *Minahan v Commissioner 88 T.C. 492*)

437. The *Reform and Restructuring Act of 1998* requires the TAXPAYER to go through these administrative, procedural (due process) steps in order to prove his "cooperativeness" with IRS, and to shift the burden of proof to the IRS during the administrative hearing and at trial. (*See* Reform and Restructuring Act of 1998, Section 3001) (*See* 26 USC Section 7491)

438. The IRS routinely ignores the Peoples' demands for their procedural, due process, statutory rights, ignoring IRS publications 1, 5, and 556, the regulations they are supposed to use in making their determination and the underlying statutes.

439. There is no penalty for the IRS agents if they violate the income tax statutes by denying the People their due process rights, but the statutes contain a multitude of penalties for the People if they violate the income tax statutes, and those penalties are almost always imposed. (*See* Index of IRS Tax Code, Penalties)

440. The IRS will often deny a person his administrative, statutory, due process rights because the statute of limitation (26 *I.R.C. 6501 et. seq*.) is running out for them to get the statutory Notice of Deficiency (*26 I.R.C. 6212*) out and they are in fear of losing the whole year of taxation from that person. (*See 26 I.R.C. 6501 et. seq*.) (*See 26 I.R.C. 6212*)

441. The IRS races to issue a STATUTORY NOTICE OF DEFICIENCY, *26 I. R. C. 6212*, rather than give the People their due process rights to administrative level resolution under *C.F.R. 601.605, 601.606*, because the IRS has greater resources and power in TAX COURT.

442. A Notice of Deficiency is, in most cases, completely erroneous, and always greatly in favor of the IRS.

443. Many people default on their Notice of Deficiency because they don't have the money to get to Tax Court.

444. IRS often uses erroneous figures for Income when they send out

a Notice of Deficiency.

445. There are other ways that the IRS uses figures that it knows are false on its Notice of Deficiencies under *26 I.R.C. 6212.*

446. The result of this the fact that the TAXPAYER is often sent an entirely false Notice of Deficiency.

447. *26 I.R.C. 6211* is used to determine how a deficiency is made and it does not allow for "o" deductions when the TAXPAYER has claimed deductions.

448. The Tax Court has, however, ruled that the use of "o" line deduction in IRS issued Notices of Deficiency is permissible, even if the taxpayer has claimed deductions.

449. The law (*26 I.R.C. 6211* Definition of Deficiency) does not permit the "bank deposit analysis" method of determining gross income of a person.

450. The IRS routinely issues Notices of Deficiency that are based on assessments that the IRS makes without following its own procedures and manuals.

451. The issuance of a Notice of Deficiency or "90 day Notice" letter is the triggering event and a person so receiving such a letter must file his case in Tax Court within 90 days or forever be held to the often totally false liability assessed in the grossly false Notice of Deficiency. (*See* 26 USC 2613)

452. This is why the administrative, statutory due process steps are so important.

453. The federal district court has refused to reach the merits of a claim that Tax Court lacks subject matter jurisdiction in those cases where the IRS has issued Notices of Deficiency after denying the taxpayers their administrative, statutory due process rights.

454. The IRS Handbook for Examination of Returns reads in part, "Examiners are responsible for determining the correct tax liability as

prescribed by the Internal Revenue Code. It is imperative that examiners can identify the applicable law, correctly interpret its meaning in light of congressional intent, and, in a fair and impartial manner, correctly apply the law based on the facts and circumstances of the case. (*See* IRS' Handbook 4.2 Examination of Returns Handbook, [4.2] 7.1)

455. The IRS Handbook for Examination of Returns also reads in part, " Conclusions reached by examiners must reflect correct application of the law, regulations, court cases, revenue rulings, etc. Examiners must correctly determine the meaning of statutory provisions and not adopt strained interpretation."

456. When a taxpayer requests what regulations and statutes the examiner used in making his determination of tax liability, the IRS refuses to cite the law.

457. Without an assessment there can be no liability.

458. The IRS disclosure officers are making the assessments.

459. There is no law in which a disclosure officer is authorized to make an assessment.

460. An assessment made by a disclosure officer is invalid as a matter of law.

461. There are over 100 regulations that apply to Form 1040 cross referenced by OMB #1545-0074, and that the IRS refuses to identify which ones they use in making determinations that a citizen is liable to file a Form 1040 and is liable to pay the tax.

462. A lien arises at the time an assessment is made. (*See* 26 USC 6322)

463. The evidence underlying the entries on the Certificate of Assessments and Payments is relevant to the issue of whether an assessment was made. (*See Beall v US, Civil Action 89 C 6500 (N.D. Ill. Eastern Div.),* which relies upon *Psaty v US, 442 F2d. 1154 (3rd. Cir. 1971),* and *US v Hart, 89-1 USTC para. 9255 (C D Ill, 1989).*

464. Without an assessment there is no liability. (*See US v Nipper No. 00-5057 (D.C. No. 98-CV-526-K)(N.D. Okla.) (10th. Cir. 2001)*

Note: On appeal the government did not provide underlying evidence in support of its tax assessments and the case was remanded back to the district court for the government to prove its tax assessments.

465. The TAXPAYER is helpless as he tries to exercise his statutory (due process) rights to these lower level administrative remedies to resolve his audit difference without going to tax court.

466. The tax imposed upon individuals required to make a return under Section 6012(a) of the Internal Revenue Code is imposed upon the individual's "taxable income." [*See* 26 U.S.C. 6012(a)]

467. The Section 6020(b) requirement for the Secretary to make the required Section 6012(a) return is to require the Secretary to compute the taxpayers taxable income so the correct amount of tax owed can be calculated. [*See* 26 U.S.C. Sections 6012(a) and 6020(b)]

468. When an individual required to make a return under Section 6012(a) of the Internal Revenue Code fails to make the required return, and the Internal Revenue Service issues a notice of deficiency, the amount of tax claimed as due by the Secretary is not based upon the taxable income, but is computed without regard to the requirements of Sections 62 and 63 of the Internal Revenue Code from which adjusted gross income and taxable income are computed from gross income. [*See* 26 U.S.C. Sections 62, 63, and 6012(a)]

469. The IRS attempts to obtain assessments of more tax than would otherwise be required by law as an unauthorized additional penalty on those who are required to, but do not, make federal income tax returns. (*See* Turner Affidavit)

470. The word "shall" as contained in Section 6001 of the Internal Revenue Code imposes a mandatory duty on those to whom the statute applies to keep records, render statements, make returns and to comply with rules and regulations promulgated by the Secretary of the Treasury. (*See* 26 U.S.C. 6001.)

471. The word “shall” as contained in Section 6011 of the Internal Revenue Code imposes a mandatory duty on those to whom the statute applies to make a return or statement according to the forms and regulations prescribed by the Secretary of the Treasury. (*See* 26 U.S.C. 6011.)

472. The word “shall” as contained in Section 6012 of the Internal Revenue Code imposes a mandatory duty on those to whom the statute applies to make returns. (*See* 26 U.S.C. 6012.)

473. The word “shall” as contained in Section 6020(b) of the Internal Revenue Code imposes a mandatory duty on those to whom the statute applies to make returns. (*See* 26 U.S.C. 6020(b).)

474. Section 6020(b) of the Internal Revenue Code states:

> If any person fails to make any return required by an internal revenue law or regulation made there under at the time prescribed therefore, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

[*See* 26 U.S.C. 6020(b)]

475. Nowhere in the Internal Revenue Code has Congress indicated that the word “shall” as used in Section 6020(b) of the Internal Revenue Code has a different meaning than as used in Sections 6001, 60011 and/or 6012 of the Internal Revenue Code. (*See* Title 26, United States Code, in its entirety.)

476. In the absence of a Congressionally declared distinction for a word used in the same Code (here the Internal Revenue Code), in the same subtitle (here Subtitle F), in the same Chapter (here Chapter 61) and in the same Subchapter (here subchapter A) to be given a different meaning, the same word is to be given the same meaning. (*See*)

477. If an individual required to make a return under Section 6012(a) of the Internal Revenue Code fails to make the required return, the Secretary of the Treasury does not make the return mandated by Section 6020(b) of the Internal Revenue Code.

478. The IRS computer system, the IDRS (Integrated Data Retrieval Systems) was programmed to require a tax return to be filed in order to create a tax module for each taxable year.

479. If an individual required to make and file a return under Section 6012(a) fails to file such a return, that the Secretary creates a "dummy return" showing zero tax due and owing. (*See Blair v. C.I.R.*, 57 T.C.M. (CCH) 1396 (1989); *Phillips v. C.I.R.*, 851 F.2d 1492 (D.C. Cir. 1988); *Schiff v. United States*, 71A A.F.T.R.2d 9303271 (1989).

480. This "dummy return" sets forth no financial data from which the gross income, adjusted gross income or taxable income can be computed. (*See Blair v. C.I.R.*, 57 T.C.M. (CCH) 1396 (1989); *Phillips v. C.I.R.*, 851 F.2d 1492 (D.C. Cir. 1988); *Schiff v. United States*, 71A A.F.T.R.2d 9303271 (1989).

481. This "dummy return" is not signed. (*See Blair v. C.I.R.*, 57 T.C.M. (CCH) 1396 (1989); *Phillips v. C.I.R.*, 851 F.2d 1492 (D.C. Cir. 1988); *Schiff v. United States*, 71A A.F.T.R.2d 9303271 (1989).

482. A "dummy return" is physically created on the IRS Form 1040. (*See Blair v. C.I.R.*, 57 T.C.M. (CCH) 1396 (1989); *Phillips v. C.I.R.*, 851 F.2d 1492 (D.C. Cir. 1988); *Schiff v. United States*, 71A A.F.T.R.2d 9303271 (1989).

483. Congress has not authorized the Internal Revenue Code or Treasury Regulations that authorizes the creation of "dummy returns". (*See* Title 26, United States Code, in its entirety.)

484. If an individual required to make a return under Section 6012(a) files a return that does not contain the financial information necessary to allow the IRS to compute gross income, adjusted gross income and/or taxable income, the IRS calls such a return a "zero return." (*See Hopkins v. United States*, 56 A.F.T.R.2d 85-5940 (1985); *Nichols v. United States*, 575 F. Supp. 320 (D.C. Minn 1983); *Tornichio v. United States*, 81 A.F.T.R.2d 98-1377 (1988).

485. If an individual required to make a return under Section 6012(a) files a return that does not contain the financial information necessary to

allow the IRS to compute gross income, adjusted gross income and/or taxable income, the IRS takes the position that no return has been filed. (*See Hopkins v. United States*, 56 A.F.T.R.2d 85-5940 (1985); *Nichols v. United States*, 575 F. Supp. 320 (D.C. Minn 1983); *Tornichio v. United States*, 81 A.F.T.R.2d 98-1377 (1988).

486. If an individual required to make a return under Section 6012(a) files a return that does not contain the financial information necessary to allow the IRS to compute gross income, adjusted gross income and/or taxable income, the IRS takes the position that the return is "frivolous" and imposes a $500 penalty. (*See Hopkins v. United States*, 56 A.F.T.R.2d 85-5940 (1985); *Nichols v. United States*, 575 F. Supp. 320 (D.C. Minn 1983); *Tornichio v. United States*, 81 A.F.T.R.2d 98-1377 (1988).

487. If an individual required to make a return under Section 6012(a) files a return that does not contain a signature made under penalty of perjury, the IRS takes the position that no return has been filed. (*See* 26 U.S.C. 6065). (*See Doll v. C.I.R.*, 358 F.2d 713 (3rd Cir. 1966); *Elliott v. C.I.R.*, 113 T.C. 125 (1999); *Richardson v. C.I.R.*, 72 T.C. 818 (1979).

488. If an individual required to make a return under Section 6012(a) files a return that does not contain a signature under penalties of perjury, the IRS takes the position that the return is "frivolous" and imposes a $500 penalty. (*See Green v. United States*, 593 F. Supp. 1341 (D.C. Ind. 1984); *McNally v. United States*, 56 A.F.T.R.2d 85-5757 (1985).

489. An IMF record bearing the code "SFR 150" indicates that a fully paid IRS Form 1040a was filed. (*See* LEM III 3(27)(68)0-34)

THE IRS ROUTINELY VIOLATES THE DUE PROCESS RIGHTS OF PEOPLE BY PREPARING A "DUMMY" TAX RETURN FOR PEOPLE IF THOSE PEOPLE DO NOT FILE A TAX RETURN

During IRS Revenue Officer Phase One training, the recruits study Lesson 23 Section IRC 6020(b). The next 16 statements of fact arise from an inspection of this lesson.

490. On page 23-1, under REFERENCES, "Circular E" is listed. Besides the Circular E, there are no other reference materials listed.

491. "Circular E", more fully known as Circular E, Employer's Tax Guide, is also designated by IRS as Publication 15. "Circular E" deals essentially with employer withholding requirements and Form 941, Employer's Quarterly Federal Tax Return.

492. In Lesson 23 page 23-1, under CONTENTS, three types of tax returns are listed: Employment Tax Returns, The Partnership Return, and Excise Tax Returns. Income Tax Returns are not included.

493. In Lesson 23 page 23-1, under INTRODUCTION, the purpose of this Lesson 23 is to instruct the revenue officer trainee about how to deal with situations involving the occasional taxpayer who refuses to voluntarily file returns, using an important administrative tool referred to as 6020(b) procedure.

494. In Lesson 23, Figure 23-1 on page 23-2 is a reprint of Internal Revenue Code Section 6020(b) and the Regulation at Section 301.6020-1.

495. Lesson 23, Figure 23-2, page 23-3, contains a reprint of Delegation Order 182. The Order lists revenue agents and revenue officers as having delegated authority to execute returns under the authority of 6020(b).

496. The Internal Revenue Manual restricts the broad delegation of Delegation Order No.182 to employment, excise, and partnership taxes.

497. The Secretary has recognized that the delegation authority of D.O. No. 182 is restricted to employment, excise, and partnership taxes because of constitutional issues.

498. The Internal Revenue Manual lists the following tax returns **Form 940**, Employer's Annual Federal Unemployment Tax Return; **Form 941**, Employer's Quarterly Federal Tax Return; **Form 942**,

Employer's Quarterly Tax Return for Household Employees; **Form 943**, Employer's Annual Tax Return for Agricultural Employees; **Form 720**, Quarterly Federal Excise Tax Return; **Form 2290**, Federal Use Tax Return on Highway Motor Vehicles; **Form CT-1**, Employer's Annual Railroad Retirement Tax Return; **Form 1065**, U.S. Partnership Return of Income - as being appropriate for action under 6020(b). (page 23-3 and 23-4; IRM 5.18.2.3)

499. Form 1040, U.S. Individual Income Tax Return is NOT included in IRM 5.18.2.3 as a return appropriate for action under 6020(b).

500. When recommending assessments under 6020(b) the revenue officer will prepare all the necessary returns.

501. The balance of Lesson 23 IRC SECTION 6020(b) for Revenue Officer Phase One training explains the 6020(b) procedures for computing the tax for Employment, Excise, and Partnership returns.

502. Lesson 23 IRC SECTION 6020(b) does not contain any references to preparing income tax returns under 6020(b).

503. Lesson 23 IRC SECTION 6020(B) makes the statement to the revenue officer trainee, "You have already studied audit referrals as a means to enforce compliance on income tax returns."

504. The trainee is told that by the end of the lesson he will be able to identify situations when action under IRC section 6020(b) is appropriate.

505. If the revenue officer is expected to identify situations when action under IRC 6020(b) is appropriate, logic then, would hold that this necessarily implies that the revenue officer would also be expected to identify situations when action under IRC 6020(b) would not be appropriate. Lesson 23 IRC SECTION 6020(b) made it clear that it is not appropriate to use 6020(b) for income tax, Form 1040 non-filers.

506. There are no training instructions within Lesson 23 that pertain to using 6020(b) to prepare and assess Form 1040, U.S. Individual Income Tax Return.

507. Lesson 23 points to Lesson 25 REFERRALS for instructions on dealing with income tax non-filers. Page 23-3, "You have already studied audit referrals as a means to enforce compliance on income tax returns."

508. The language of IRC 6020(b)(1) is very broad, "…if any person fails to make any return…" The IRS purports that there are ways (plural) to resolve cases for nonfilers with different situations, different types of taxes and different types of tax returns. (Under WHY THIS LESSON IS IMPORTANT, page 25-1)

509. IRS makes a distinction in the procedures for dealing with non filers of income tax returns as opposed to employment, partnership and excise tax returns. (Under WHY THIS LESSON IS IMPORTANT, page 25-1)

510. IRS uses "6020(b) procedures" to enforce compliance of non filers of employment, excise, and partnership returns, and uses "Referral to Exam" procedures to enforce compliance of income tax nonfilers. (Under WHY THIS LESSON IS IMPORTANT, page 25-1)

511. The stated focus of Lesson 25 REFERRALS is *the referral process.* (Second paragraph under WHY THIS LESSON IS IMPORTANT, page 25-1)

512. An objective of Lesson 25 is for the trainee to be able to select which cases should be referred to the Examination Division. (Under LESSON OBJECTIVES, page 25-1)

513. Lesson 23 IRC SECTION 6020(b) made it clear that the revenue officer is not to use 6020(b) for enforcing compliance of income tax non filers, but instead is to use the referral process in. (page 23-3)

514. In Lesson 25, the reference materials to be used for the lesson are listed under REFERENCES, and the lone item listed is IRM 52(10) 0. There is no reference to any statute or any internal revenue code section. (page 25-2)

515. In Lesson 25, page 25-3, under OBJECTIVES, the trainee is told that after completing this lesson he will be able to select those cases which should be referred to the Examination Division. (page 25-3)

516. Lesson 25 pages 25-4 through 25-9 contain instructions, with examples, showing the trainee how to complete referral forms. This section of the lesson on the subject of making referrals to Exam for income tax non-filers concluded with the statement, "Remember: Refusal to file cases involving Forms 940, 941, 942, 943, 720, 1065, 2290, or CT-1 will not be referred to Exam. These returns should be prepared under authority of IRC Section 6020(b)." Clearly, IRC section 6020(b) is to be utilized to enforce compliance of specified business master file returns. In this lesson, there is no mention anywhere of the statute that authorizes IRS preparation of Form 1040 U.S. Individual Income Tax Returns. (Lesson 25 in its entirety)

517. IRC 6020(b)(1) is written in very broad language and if taken literally it seems to give authorization to IRS to make any return for any person who fails to make one. However, we have seen how the statute is, in fact restricted in its application. Revenue officers, and specified other IRS employees do have delegated authority to make returns under 6020(b). But, we have seen that the delegated authority limits the types of returns that can be prepared under 6020(b).

We have seen that the exclusion includes income tax returns, corporate or individual. Since 6020(b) does not permit preparation of income tax returns, and, since the SFR program is merely a program, with no basis in law, There is no authority for IRS to make an income tax return when a citizen fails to make his own. (*See* **Lesson 23 and Lesson 25**) (*See* also **IRM Part 5, Chapter 11 Delinquent Return Accounts; IRM Part 5, Chapter 18 Liability Determination; IRM Part 4 Chapter 23 Section 11; IRM Part 4, Sect. 9 Delinquent & Substitute Return Processing; Handbook 4.3.20 Frivolous Non filers; Title 26 and its regulations**).

518. It is well settled in law that government employees need proper delegated authority to operate in their capacities. IRS employees have no delegated authority to make "Substitute for Returns." (*See* **IRS letter dated November 2, 1993**)

519. Phase One Revenue Officer training material, Lesson 23 IRC SECTION 6020(b) clearly demonstrates how and why 6020(b), in spite of its language, is not able to allow IRS to make proper, legally valid, 1040 income tax returns for non filers. Yet, another IRM claims that IRS does

have authority for income tax returns under 6020(b). IRM 5480, states, "SCCB prepares Forms 1040 under authority of Internal Revenue Code 6020(b)…" Since both manuals cannot both be correct, how can this be rectified? A. It cannot be rectified. For BMF returns under 6020(b), IRS employees complete the return with all necessary data. The returns include an employee's signature where the taxpayer would normally sign. 6020(b) returns also disclose the computed tax liability. With IMF returns (income tax) done via SFR procedures, income information is never disclosed on the return, tax liability is not disclosed on the return, and there is never a signature by an employee on a 1040 return. What this means is that "constitutional issues" are involved with the income tax, so IRS cannot use the same procedures as they do with BMF returns.

THE COURTS ARE BIASED AGAINST THOSE THAT QUESTION THE VALIDITY OF THE FEDERAL TAX LAWS

520. 26 U.S.C. 7203 purportedly imposes a penalty for the crime of willful failure to file a tax return. (*See* 26 U.S.C. 7203.)

521. Congress enacted 26 U.S.C. 7203 in August, 1954. (*See* 26 U.S.C. 7203, credits and historical notes.)

522. The United States Supreme Court in *South Dakota v. Yankton Sioux Tribe*, 522 U.S. 329 (1998) stated: "[w]e assume that Congress is aware of existing law when it passes legislation."

523. Congress enacted 44 U.S.C. 3512 in 1980. (*See* 44 U.S.C. 3512, credits and historical notes.)

524. 44 U.S.C. 3512 states that:

> (a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this subchapter if--
>
> (1) the collection of information does not display a valid control number assigned by the Director in accordance with this subchapter; or

> (2) the agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number.
>
> (b) The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.

(*See* 44 U.S.C. 3512.)

525. United States Supreme Court Chief Judge Taney in 1863 protested the constitutionality of the income tax as applied to him. [*See Evans v. Gore*, 253 U.S. 245, 257 (1920)]

526. United States District Court Judge Walter Evans, in 1919 protested the constitutionality of the income tax as applied to him. [*See Evans v. Gore*, 253 U.S. 245 (1920)]

527. United States Circuit Court Judge Joseph W. Woodrough in 1936 protested the constitutionality of the income tax as applied to him. [*See O'Malley v. Woodrough*, 307 U.S. 277 (1939)]

528. United States District Court Judge Terry J. Hatter and other federal court judges in the 1980s protested the constitutionality of taxes as applied to them. [*See United States v. Hatter*, 121 S. Ct. 1782 (2001)]

529. Even in criminal cases where a loss of freedom can be the result, American citizens who are not judges are precluded by the federal judiciary, and with the express approval and consent of the Department of Justice and U.S. Attorney, from arguing the constitutionality of the income tax as applied to them. (*See U.S. v Farber, 630 F2d 569, 573,* 8th Cir. 1980)

530. The Executive and Judicial branches of the federal government label Americans who challenge the legality of the federal income tax as "tax protesters." (Department of Justice Criminal Tax Manual, "Tax Protestor" section.)

531. United States Supreme Court Chief Judge Taney submitted his protest in a letter to the Secretary of the Treasury. [*See Evans v. Gore*, 253 U.S. 245, 257 (1920)]

532. Letters of protest written to the Secretary of the Treasury by American Citizens are used by the Executive branch of government, and accepted by the Judicial branch of government, as proof of income tax evasion and conspiracy against those who write the letters. (*See*)