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May 7, 2002

Mr. Jeffrey A. Burdette
113 Rosehill Acres
Scott Depot, West Virginia 25560

Dear Mr. Burdette:

Thank you for contacting me. I appreciate hearing from you and enjoy learning your views.

You make some interesting points. I will look into the reasons the Internal Revenue Service and the Department of Justice canceled their representation to your conference earlier this year. The Constitution does grant Congress, through the sixteenth amendment, the power to levy taxes from income.

As I am sure you know, in 1894, the Income Tax Act was signed into law, which provided for the levying of taxes upon the gains, profits, or income derived from any kind of property, rents, interest, dividends, or salaries. The constitutionality of this law was challenged, and upon examining the history of the constitutional provisions of the federal taxing power, the Supreme Court in *Polluck v. Farmers' Loan and Trust Company*, found it to be unconstitutional. This conclusion was based upon the court's finding that the Income Tax Act of 1894 was a direct tax, which did not meet the constitutional specifications requiring all direct taxes be apportioned among the states and counties.

The reason we have a federal income tax today is because of the Sixteenth Amendment to the Constitution, which was ratified in 1913. This Amendment provides that:

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.

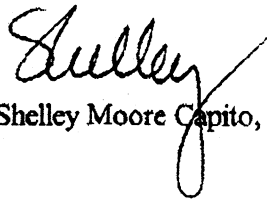
The Congress immediately took advantage of this clarification of its power and enacted another federal income tax substantially similar to the 1894 tax. This tax's constitutionality was challenged as well in *Brushaber v. Union Pacific Railroad Company*. The court under Chief Justice White found that, because of the Sixteenth Amendment, the direct tax apportionment rule no longer applied to the income tax. White also noted the Court's ruling in the Polluck case was based upon the specifications of a direct tax in the Constitution and not upon the constitutionality of an income tax in itself. He also said that the underlying character of the income tax was not contrary to the ideas of the Constitution and that it was actually an indirect tax in character. Chief

Justice White discussed the impact of the Sixteenth Amendment and said it allowed the court to actually take into consideration the substance of the income tax instead of its form.

I am enclosing a Congressional Research Report on the Federal Income Tax for your additional information and I hope it is helpful to you.

Again, thank you for contacting me. Please continue to keep in touch. I look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script that reads "Shelley". The signature is written in black ink and is positioned above the printed name.

Shelley Moore Capito, M.C.

SMC:rr