

Bob Schulz

From: Tim Neff [timneff@rovin.net]
Sent: Sunday, May 26, 2002 12:53 AM
To: info@givemeliberty.org
Subject: Senator Voinovich - Ohio

WTP,

I emailed my Representative and both my Senators regarding the legality of the income tax and the record of the Truth-in-Taxation Hearing that was delivered to their offices. So far, this is the only response I've received. If you want to use this letter, that's fine. Contact me with details if you need anything more from me in order to use it. Thanks for all your work and sacrifice.

GEORGE V. VOINOVICH
OHIO

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 senator_g_voinovich@voinovich.senate.gov
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United States Senate

WASHINGTON, DC 20510-2004

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**ENVIRONMENT AND
PUBLIC WORKS**

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ETHICS

May 10, 2002

Tim Neff
 4609 Rugler Mill Road
 Cincinnati, Ohio 45236

Dear Tim:

Thank you for contacting me regarding the legality of the federal income tax. I appreciate this opportunity to respond.

Congress was instilled with the power to lay and collect income taxes in 1913 when the Sixteenth Amendment to the Constitution was enacted:

The Congress shall have power to lay and collect taxes on income, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

A popular misconception is that because President Taft never signed the resolution which became the Sixteenth Amendment, it is either unconstitutional or illegal. This is false; the Supreme Court ruled as early as 1798 that resolutions of Congress proposing amendments to the Constitution need not be submitted to the acting President. Thus, Congress' power to lay and collect taxes on income is both constitutional and legal.

Prior to the Sixteenth Amendment, the United States Constitution addressed the power of Congress to tax. There is only one express exception to federal taxing power found in the Constitution. Article I, Section 9 provides:

No tax or duty shall be laid on articles exported from any state.

Further, the Constitution divides all taxes into two classifications, direct taxes and indirect taxes. Direct taxes must be levied according to the rule of apportionment, and indirect taxes must be levied according to the rule of uniformity.

The classification of direct taxes and the rule of apportionment are set forth in Article I, Section 9, Clause 4 of the Constitution:

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census of Enumeration herein before directed to be taken.

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There are two types of direct taxes that have to be apportioned, taxes on property and capitation, or head, taxes.

The classification of indirect taxes and the rule of uniformity are set forth in Article I, Section 8, Clause 1 of the Constitution:

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

The rule of uniformity requires that an indirect tax not discriminate geographically. For example, it would violate the rule of uniformity to enact a special income tax rate for residents of the state of Texas; however, it does not violate the rule to have a special income tax for individuals who make over \$50,000 per year.

Many people concern themselves with the classification, either direct or indirect, of the federal income tax. However, since the ratification of the Sixteenth Amendment, it makes no practical difference which classification one gives to the income tax because, without classifying the income tax, the 1913 amendment empowers Congress to lay and collect taxes on incomes, from whatever source, without apportionment.

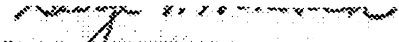
Another widespread misconception is that our tax system is voluntary. This again is not true. We do not have a voluntary tax system in the sense that payment of taxes is optional; there are specific provisions, as outlined above, which require the payment of income taxes. There are civil and criminal penalties for failing to pay these taxes or file the required returns. The phrase voluntary tax system is commonly used in discussion of our tax compliance system because the U.S. does have a system of collecting taxes that depends to a certain extent upon voluntary compliance. If a large number of the citizenry did not report their income, our system of collection would not work efficiently. Citizens' cooperation is vital to the operations of our government.

Finally, some clarifications regarding the Internal Revenue Service (IRS) must be made. The IRS does not have the power to tax; rather, it has been charged by an act of Congress with the responsibility of administering and enforcing the internal revenue laws and related statutes which have been enacted by Congress.

Thank you again for contacting me. Please feel free to contact me again about this or any other issue that concerns you.

Sincerely,

Thomas W. Williams, Jr.


George J. Voinovich
United States Senator

GVV/jj

Our God is an Awesome God!
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