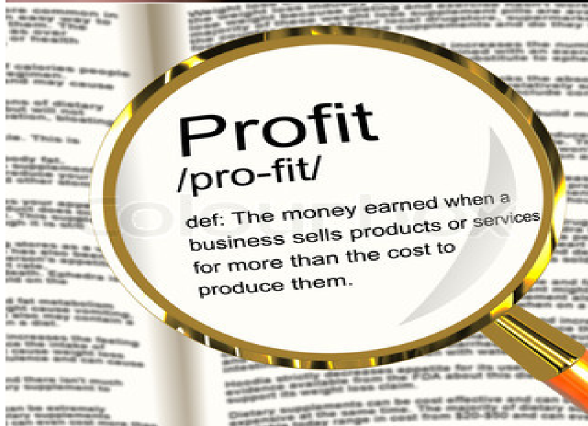
IR$ Forbidden Fruit

All Profits on Income Not Reported…

..from the *fruits* of our labor



*The 16th Amendment declared: "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." **There is no mention of "profit" in the 16th Amendment, therefore legal reason dictates, taxes are on incomes, not based a profit.** However in Defendants' religion tax are based on "profits". All profits on income not reported from the fruits of our labor is per se IRS' Forbidden Fruit. The **IRS' Tree of Knowledge of good and evil** and its fruits is rooted in a demigod's hierarchy vs. constitutional authority. Plaintiff [believes] IRS Forbidden Fruit is washed by the sins of greed.*

Plaintiff [believes] all profits on incomes or taxable income not reported from the fruits of our labor is IRS Forbidden Fruit. In Defendants religion by making a proper return to the IRS and to their path of life, belief and practice; taxprayers are touching/tasting the Fruits of The Purpose-Driven Life of THEIRS. IRS Forbidden Fruit has been deemed a sinful thought… as sin shall remain, in its essence, a bad or wrongful idea. Plaintiff [believes] Forbidden Fruit are the wages of sin… from the profit of labor.

U.S. taxation is about laying and collecting taxes on profits instead of "incomes" to advance a religious system of beliefs and words of one's own making. If Jesus Christ is about "reason" and our concept of Christianity is about "religion" then… For what shall it profit a man, if he shall gain the whole world, and lose his own soul? Mark 8:36 King James Version (KJV). Note, Jesus stated "profit" not "incomes".

No Company sells "profits" to anyone… they sell products & services to create "incomes"

What is "Income?"

The premise of attachment A is that "income" defined in our modern-day language is quite different than the original intent of the framers of tax laws and especially the income tax code. Over the course of decades the terminology and definitions for income have been manipulated in the public consciousness for less than honorable purposes.

The argument is stated thus: income is not all that comes in and was never intended to be wages, salary or compensation for labor. To further complicate the issue, corporations and the self-employed have the luxury of deducting many expenses related to the production of income or profit, yet the common worker in neither of those categories is able to deduct one penny for expenses related to their production of income. This is an inequity that cannot be overlooked any longer should any individual choose to voluntarily pay the income tax.

"Every presumption is to be in the oldest in favor of faithful compliance by Congress with the mandates of the fundamental law [the Constitution}. Courts are reluctant to adjudge any statute in contravention of them. But, under our frame of government, no other places is provided where the citizen may be heard to urge that the law fails to conform to the limits set upon the use of a granted power. When such a contention comes here we naturally require a showing that by no reasonable possibility can the challenged legislation fall within the wide range of discretion permitted to the Congress. How great is extent that range, when the subject is the promotion of the general welfare of the United States, we hardly need remark. But, despite the breadth of the legislative discretion, our duty to hear and to render judgment remains as. If the statute plainly violates the stated principal of the Constitution we must so declare." United States v. Butler, 297 U.S. (1935).

26 CFR 39.21-1 (1956).. Meaning of net income. (a) The tax imposed by chapter 1 is upon income. Neither income exempted by statute or fundamental law - (the Constitution), 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 Exemption--Exclusions from gross income. 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;"

Today's regulations put it this way: CFR ~ 1.61-1 (Current)

Gross income. General definition. Gross income means all income <u>from whatever source *derived*</u> unless excluded by law.

The "excluded by law" clause refers to constitutional forms of taxation and all other applicable laws as set forth herein.

The IR Code defines income as:

Section 22 GROSS INCOME:

(a): Gross income includes gains, profits, and income derived from salaries, wages, or compensation for personal service..."

My gross income is NOT a "gain, profit or income," that is "DERIVED FROM" anything but my labor, which is NOT my "profit." Actual "gross income," as defined in IR Code, and in keeping with case law and Congressional records, is any "profit" or "gain" that is "derived FROM" my income. Example: I receive $10,000 wage for service or labor provided. This is an equal exchange, with NO material difference in the exchange. My labor or service is equal in value to the income (or other compensation) received. This is NOT taxable under law.

I take this $10,000, and invest it in some way, and receive a "profit" or "gain" FROM this income I received, as interest, or what is termed "unearned income." I exerted NO personal labor, (which I own,) and received an actual "profit" or "gain" from the investment. THIS, and ONLY this "gain" is possibly taxable, but ONLY according to constitutional law across the country, and ONLY according to other personal tax liability defined in IR Code and the issues presented throughout this affidavit. The actual principle amount is NOT diminished in any way, and ONLY the profit or gain "DERIVED FROM" the principle is possibly taxable.

"Income Tax: A tax on the yearly profits arising from property, professions and trades, and offices." Henry Campbell Black, A Law Dictionary 612 (1910).

Income tax: An 'income tax' is a tax which relates to product or income from property or from business pursuits." Levi v. City of Louisville, 30 S.W. 973, 974, 97 Ky. 394, 28 L.R.A. 480.

"The term 'income tax' includes a tax on the gross receipts of a corporation or business." Parker v. North British Ins. Co. 7 South. 599, 600, 42 La. Ann. 428.

My labor is my property which I am free to use and dispose of as I wish:

"Among these unalienable rights, as proclaimed in the Declaration of Independence, is the right of men to pursue their happiness, by which is meant, the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment... 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, (without said property, ((labor or service, which allows the receipt of money FROM which someone may produce "income")) so it is the most sacred and inviolable ...to hinder his employing.., in what manner he thinks proper, without injury to his neighbor, is a plain violation of the most sacred property." Butchers' Union Co. V. Crescent City, CO., 111 U.S. 746, 757 (1883).

"Can be said with any degree of sense were just as that the property which a man has been his labor which is the foundation of all property in which is the only capital of so large majority of the citizens of our country is not property; or, at least, not that character of property which can

demand boom of protection from the government? We think not." Jones v. Leslie, 112 P. 81 (1910).

"Though the earth and all inferior creatures the common to all men, it every man has a property in his own person; this nobody has any right to buy himself. The labor of his body and the work of his hands, we may say, are properly his." John Locke, "2nd Treatise of government (1690), 27.

"Property is everything which has an exchangeable value, in the right of property includes the power to dispose of that according to the will of the owner. Labor is property, and as such merits protection. The right to make it available is next in importance to the rights of life and liberty. It lives to a large extend the foundation of most other forms of property, and of all solid individual and national prosperity." Slaughter � House Cases, 83 U.S. 36, at 127 (1873).

The issue of whether a man's labor is his actual property rests in the fact that a person's labor or service has value, and that it can be exchanged for something of similar value.

"We all have the innate ability to earn income based on our natural intelligence and physical strength...the income from the skills is in part to return to earlier investments in food, shelter, and clothing." A. Parkman, "The Recognition of Human Capital As Property in Divorce Settlements, 40 Arkansas Law Review, 439, 441 (winter 1987).

In order to produce labor or service in exchange for wages or compensation, there must be a reasonable amount of support structure such as food, shelter, clothing, health support, adequate rest, reasonable amount of recreation, etc. Without these basic elements, the ability to produce labor, wages, and such is impossible. Human energy in the form of labor and service is a commodity. It is something that can be bought or sold for a price. Anything that has economic value inevitably raises the question of who owns it. if I do not own my personal ability to labor and produce, Then Who Does?

"To a slave, as such, there appertains and can appertain no relation, civil or political, with the state or the government. He is himself strictly property, to be used in subserviency to the interests, the convenience, or the will, of his owner." Dred Scott v. Sandford, 19 How. 393, at 475 -- 476 (1856).

To own slaves meant that their labor can be owned as a form of legal property or capital asset. The principal of slavery is at work with anyone who is deprived under power of law of the right to claim their labor as their property. Human labor has all the essential legal prerogatives and attributes of property.

"The right of a person to sell his labor upon such terms as he deems proper is, in its essence, the same as the right of the purchaser of labor to prescribe the conditions upon which he will accept such labor from the person offering to sell it... In all such particulars the employer and the employee have the quality of right, and any legislation that disturbs that equality is an arbitrary interference of liberty of contract which no government can legally justify a free land." Adair v. United States, 208 U. S. 161, at 174-175 (1908).

"Included in the right of personal liberty and the right of private property -- are taking of the nature of each -- is the right to make contracts for the acquisition of property. The chief among such contracts instead of personal employment, by which in labor and other services are exchanged for money or other forms of property. If this right be struck down or arbitrarily interfered with, there is a substantial impairment of liberty in the long-established constitutional sense. The right is as essential to the laborer as to the capitalist, to the poor as to the rich; for the vast majority of persons have no other artists away to begin to acquire property, save by working for money." Coppage v. Kansas, 236 U.S. 1, at 14 (1915).

Thus a contract for labor is a contract for sale of property.

"The time and labor provided by the employees of the Chattanooga city school system were purchased with public funds and thus became property, with an easily determined value, which belonged to the city. the appellant converted the proceeds of those public funds to his own use to repay favors and a creating more comfortable home for himself and his girlfriend. the statute was sufficiently clear to place the appellant, or any other public official, on notice that the embezzlement of the labor of employees of the state of Tennessee or any County or municipality therein, is a criminal act." State v. Brown, 791 S.W. 2d 31, 32 (1990).

"Property... corporeal or in corporeal, tangible or intangible, visible or in visible, real or personal; everything that has an exchangeable value." Blacks Law Dictionary, 1979 edition.

"We conclude that if one's gambling activities pursued full-time, in good faith, and with regularity, to the production of income for a livelihood, and is not a mere hobby, it is a trade or business within the meaning of the statutes which we are here concerned. Respondents Groetzinger satisfied that test in 1978. Constant and large -- scale effort on his part was may. Skill was required and supplied. He did what he did for a livelihood, though with a less than successful result. This was not a hobby or a passing fancy or an occasional debt for amusement." Commissioner v. Groetzinger, 480 U.S. 23 (1987).

In the above case, it clearly shows that someone who puts regular, consistent efforts into making a living is engaged in a trade or business, NOT related to U.S. government employment, whether they are employed by another party or were employed themselves. Concerning my own employment, I have pursued my occupation of selling my labor, energy and skills on a full-time basis, in good faith, continuity and regularity, representing a constant and large-scale effort over many years, for the production of income for a livelihood, with skilled being required and applied, it's an does not a sporadic activity, a mere hobby, or an amusement diversion. These very facts, being applied to all Americans across the country, should at the very least, allow each and every one of them to deduct all living expenses required to maintain their personal property which is used in making a living.

IR Code Sections 1001, 1011 and 1012 and their regulations, 26 C.F. R. Sections 1.1001-1(a) 1.1011-1 and 1.1012-1(a), provide the method for determining the gain derived from the sale of property:

Section 1001(a);

"The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 1011 for determining gain..."

Section 1001(b);

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."

Section 1011:

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."

Section 1012:

The basis of property shall be the cost of such property..."

The cost of property purchased under contract is its fair market value as evidenced by the contract itself, provided neither the buyer nor the 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 developmental Co. v. C.I.R., 345 F.2d 933 (19650; 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 other words, if an employer and employee agree that the employee will exchange one hour of his time in return for a certain amount of money, the cost, or basis under Section 1012, of the employee's labor is the pay agreed upon. By the same token, if an attorney, doctor or other independent contractor agrees to perform a certain service for an afreed upon amount of compensation, the value of the service to be performed is the amount agreed upon as payment for the service.

In the case of the sale of labor, none of the provisions of Section 1016 are applicable, and the adjusted basis of the labor under Section 1011 is the amount paid. Therefore, when the employer pays the employee the amount agreed upon, or the professional is paid for his or her services, there is no excess amount realized over the adjusted basis, and there is no gain under Section 1001. There being no gain, there is no "income" in the constitutional sense, and no "gross income" under Section 61(1).

If one has no gain, one would not have sufficient "gross income" to require the filing of a federal personal income tax return under Section 6012. Likewise, without gain, there can be no "self-employment income," and one who is self-employed would not be required to file a federal personal income tax return under Section 6017.

All other issues such as FICA tax, Railroad Retirement Tax, Federal Unemployment Tax, W4's, etc., would be null because no gain or "income" has actually been realized.

More Case law:

"A STATE [OR THE FEDERAL GOVERNMENT] MAY NOT IMPOSE A CHARGE FOR THE ENJOYMENT OF A RIGHT GRANTED BY THE FEDERAL CONSTITUTION." - Murdock v Pennsylvania, 319 U.S. 105, at 113.

"Citizens under our Constitution and laws mean free inhabitants ... Every citizen and freeman is endowed with certain rights and privileges to enjoy which no written law or statute is required. These are fundamental or natural rights, recognized among all free people ... That the right to... accept employment as a laborer for hire as a fundamental right is inherent in every free citizen, and is indisputable..." United States v. Morris, 125 F. Rept. *325,* 331.

The term [liberty] ... denotes not merely freedom from bodily restraint but also the right of the individual to contract. to engage in any of the common occupations of life ...The established doctrine is that this liberty may not be interfered with, under the guise of protecting public interest, by legislative action..." Meyer v. Nebraska, 262 U.S 390, 399, 400.

My labor has a value, just as an employer or customer's money has value. I agree to my employer's wage or customer's money for my merchandise, and they agree to the labor or service I will "exchange" FOR that income. The process is an even exchange... (See COTTAGE SAVINGS ASSN v. COMMISSIONER, 499 U.S. 554 (1991)

"the right to hold specific private employment and to follow a chosen profession free from unreasonable government interference comes within the 'liberty' and 'property' concepts of the Fifth Amendment." Greene v. McEleroy, 360 U.S. 424, 492 (1959).

This means the the right to hold a job to generate income is a "use" or a "holding of property for the production of income."

The exchange of labor for wages, salary or compensation or income, materially has NO difference in value, and therefore, there is nothing which is an actual "profit" that can be taxed.

My labor cannot be valued LESS THAN the value of the money or wage paid to me for my labor or service, but this is what takes place when my wage is directly or indirectly taxed.

Any exchange of my labor cannot be devalued below the value of the wage I received in order to attempt to show that I received a "profit," and possibly make me "liable" for a tax. My labor is valued EQUAL TO the wage I receive. Neither can the wage I make be counted in its entirety as a "profit," or this makes my labor or service worth nothing. I exchange my labor or service, which I value exactly equal to the income I receive. There is NO material difference between the values for either my labor or service provided, and the income received FOR labor or service.

I have the freedom and right to value my labor at any amount, and can, therefore, accept ANY amount of income as equal value to any labor or service I provide any party. Anything short of this that is taxed is clearly due to slave labor, and is theft by coercion, fraud and conversion, and is clearly unconstitutional and against common law and case law. (See Attachments C and See

Attachment F), and the following case law on "material difference" which clearly proves these facts:

An example of "no material difference" in the exchange of labor for wage, salary or compensation:

John has hundred dollar bills but needs some twenty dollar bills. Mary has twenty dollar bills, but needs some hundred dollar bills. They agree to work for each other because John wants some twenties for his $100 bills, and Mary wants some $100 bills for her twenties. They agree to work for each other for the day. John agrees to give Mary one, one hundred dollar bill for the day, and Mary agrees to give John 5, twenty dollar bills for the day. At the end of the day's work for each other, they pay each other, or, exchange the bills. Question: Which one of them has made a "profit" from the exchange made?

When someone works for a wage or salary, they have agreed to exchange their labor for the money offered by the employer or customer. The person has agreed that their labor is worth whatever the employer or customer is willing to offer, (or is willing to accept the pay even though they value their labor at MORE than what is paid, thereby causing them a "material LOSS"). The process is simply an "exchange" of value, 1 to 1. There is NO "profit" being made by either at the point. The employee has his labor and needs cash, while the employer has cash, and needs labor performed.

If they both are considered to have made a "profit," just from the exchange of labor for money, in what way has this occurred? What "material difference" is there between the one, one hundred dollar bill, and the 5, twenty dollar bills? What "material difference" is there between the exchange of labor for cash? Are they not equal in value to each other? What "profit" has been made by labor or service provided in exchange for money or service? How has an actual profit occurred unless the actual labor or service is valued at zero value and ALL that was received was profit?

In the same way, EVERY "exchange" of labor or service for compensation, in whatever form, has NO "material difference" between either. To suggest otherwise, is to effectively make all labor and services of NO intrinsic value, and we become slaves through that process.

I request the IRS or any related agency to explain this "material difference" See COTTAGE SAVINGS ASSN v. COMMISSIONER, 499 U.S. 554 (1991) for legal case law on "material difference" legal issue and how all that one makes as compensation can be valued as "profit" and yet NOT make a person's labor or service of NO value.

Case Law Proving Labor is property, and wages, salary and compensation (all income as termed today) is NOT subject to the income tax:

Legal and intended Definition of "Income," and law affecting IRS Actions;

Section 22 GROSS INCOME:

(a): Gross income includes gains, profits, and income derived from salaries, wages, or compensation for personal service..."

Gross Income Defined: Section 213. That for the purposes of this title (except as otherwise provided in section 233, [Gross Income Of Corporations Defined -PH]) the term gross income- (a) includes gains, profits, and income derived from salaries, wages, and compensation for personal service (including in the case of the President of the United States, the judges of the Supreme and inferior courts of the United States, and all other officers and employees, whether elected or appointed, of the United States, Alaska, Hawaii, or any political subdivision thereof or the District of Columbia, the compensation received as such).

Said "gains, profits, and income" are all classified as being "DERIVED FROM" salaries, wages or compensation..." This is in keeping with the original intent of the 16th Amendment and what the so-called "Income" tax was designed for... to tap the unearned income the wealthy had an abundance of:

"An unapportioned direct tax on anything which is not income would be unconstitutional." - C.I.R. v. Obear-Nester Glass Co., C.A. 7, 1954, 217 F.2d, 75 S. Ct. 570 348 U.S. 982, 99L.Ed. 764, 75 S. Ct. 870, 349 U.S. 948, 99 L. Ed. 1274.

"When a court refers to an income tax as being in the nature of an excise, it is merely stating that the tax is not on the property itself, but rather it is a fee for the privilege of receiving gain from the property. The tax is based upon the amount of the gain, not the value of the property." C.R.S. Report Congress 92-303A (1992) by John R. Lackey, Legislative attorney with the library of Congress:

"The meaning of "income" in this amendment is the gain derived from or through the sale or conversion of capital assets: from labor or from both combined; not a gain accruing to capital or growth or increment of value in the investment, but a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital however employed and coming in or being "derived", that is, received or drawn by the recipient for his separate use, benefit, and disposal." Taft v. Bowers, N.Y. 1929, 49 S.Ct. 199, 278 U.s. 470, 73 L.Ed. 460.

"It becomes essential to distinguish between what is, and what is not "income"... Congress may not, 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....[Income is] Derived--from--capital--the--gain--derived--from-capital, etc. Here we have the essential matter--not gain accruing to capital, not a growth or increment of value in the investment; but a gain, a profit something of exchangeable value...severed from the capital however invested or employed, and coming in, being "derived," that is received or drawn by the recipient for his separate use, benefit and disposal-- that is the income derived from property. Nothing else answers the description.... "The words 'gain' and 'income' mean the same thing. They are equivalent terms..." - Congressional Globe, 37th Congress 2nd Session, pg. 1531.

"The word "income" as used in this [16th] amendment does not include a stock dividend, since such a dividend is capital and not income and can be taxed only if the tax is apportioned among the several state in accordance with Art. 1 Sec. 2, cl.3 and Art. 1, Sec. 9, cl. 4 of the Constitution." Eisner v. Macomber. N.Y. 1929, 40 5.Ct 189, 252 U.S. 189, 64 L.Ed. 521.

"[Income is] derived--from--capital--the--gain--derived--from--capitol, etc. Here we have the essential matter--not gain accruing to capitol, not growth or increment of value in the investment; but a gain, a profit, something of exchangeable value...severed from capitol however invested or employed and coming in, being "derived", that is received or drawn by the recipient for his separate use, benefit and disposal--that is the income derived from property. Nothing else answers the description...". [emphasis in original]... "After examining dictionaries in common use (Bouv. L.D.; Standard Dict.; Webster's Internat. Dict.; Century Dict.), we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909 (Stratton's Independence v. Howbert, 231 U.S. 399, 415; Doyle v. Mitchell Bros. Co, 247 U.S. 179, 185)� "Income may be defined as the gain derived from capital, from labor, or from both combined," provided it be understood to include profit gained through a sale or conversion of capital assets, to which it was applied in the Doyle Case (pp. 183, 185) Eisner v. Macomber, 252 US 189 (1920)

"The claim that salaries, wages, and conpensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who has performed the services which produce the gain is without support, either in the language of the Act or in the decisions of the courts construing it. Not only this, but it is directly opposed to provisions of the Act and to regulations of the U.S. Treasury Department, which either prescribed or permits that compensations for personal services not be taxed as a entirety and not be returned by the individual performing the services. It has to be noted that, by the language of the Act, it is not salaries, wages or compensation for personal services that are to be included in gross income. That which is to be included is gains, profits, and income <u>derived from</u> salaries, wages, or compensation for personal services." The United States Supreme Court, Lucas v. Earl, 281 U.S. 111 (1930)

The original intent of the founders of the Constitution was NOT to tax wages or salaries of the people of the several states. The word "income" had a completely different meaning then, compared to what is presumed to be the meaning today. Not only Supreme Court Case law, but hundreds of Congressional Records of the time (as documented in the book "Constitutional Income: Do you have any?") clearly show what the "income" tax was understood to be:

"The task of interpretation must therefore be to discover what was the meaning common to each of these terms at the time the Constitution was adopted." Francis W. Bird, Constitutional Aspects of the Federal Tax on the Income of Corporations, 24 Harvard Law Review 31, 32 (1911).

"The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary [meaning] as distinguished from [their] technical meaning; where the intention is clear there is no room for construction and no excuse for interpolation or addition." United States v. Sprague, 282 U.S. 716, 731 (1930).

"The Treasury cannot by interpretive regulations, make income of that which is not income within the meaning of revenue acts of Congress, nor can Congress, without apportionment, tax as income that which is not income within the meaning of the 16th Amendment." Helvering v. Edison Bros. Stores, 133 F2d 575. (1943)

"It is not a function of the United States Supreme Court to sit as a super-legislature and create statutory distinctions where none were intended. " American Tobacco Co. v. Patterson, 456 US 63, 71 L Ed 2d 748, 102 S Ct. 1534 (1982)

"...income; as used in the statute should be given a meaning so as not to include everything that comes in. The true function of the words "gains" and "profits" is to limit the meaning of the word "income." S. Pacific v. Lowe, 247 F. 330. (1918)

Gains, profits, and income all relate back to one another as being equal, and quite distinct from "wages and salaries." Working for wages or salaries or other compensation to provide for family and livelihood were NOT "income" nor intended to be taxed. Such taxation diminishes the ability to provide for "Life, Liberty and the pursuit of happiness," and deminshes wealth... diminishes the "principle" and therefore makes one poorer because of it.

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections." West Virginia State Board of Education v. Barnette - 319 U.S. 623

Such property was NOT to be taxes, but the "gains, profits, and income" from such property WAS available to be taxed, but ONLY according to Constitutional law.

""...we are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the state. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. He owes nothing to the public so long as her does not trespass upon their rights." Hale v. Henkel, 201 U.S. 74 (1905):

"Privilege" was what "could" be taxed by the "income" tax. Such privilege was NOT the "RIGHT" to work. "Right" and "privilege" are two distinctly different things.

It was not the intention of the American people to tax the wages and salaries of the working man, but ONLY to reach the "gains, profits and unearned income" of the country... something that was

fought by big business and the wealthy of the country, and something which most people in the nation did NOT have...

"We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted." Mattox v. U.S. 156 U.S. 237, 243 (1895).

"For 1936, taxable income tax returns filed represented only 3.9% of the population."

"The largest portion of consumer incomes in the United States is not subject to income taxation. likewise, only a small proportion of the population of the United States is covered by the income tax." Treasury Department's Division of Tax Research publication, 'Collection at Source of the Individual Normal Income Tax,' 1941."

Are we to believe that only 3.9% of the entire population of America worked for a living, making wages and salaries in 1936? Despite the incorrect definition for the word "income," the Treasury Department clearly shows how "incomes," while mis-defined, also shows that wages and salaries (what they believed to be income) were not yet the focus of "income" taxes.

Constitutional income" means what We the People say it Means. Any word or term used in the Constitution has the meaning the People intended that word or term to mean at the time the Constitution was ratified. Or, in the case of an amendment to the Constitution, we use the words therein as the American People understood them to mean at the time the amendment was (supposedly) ratified by the several States. To understand what the meaning of the word "income" is, we must examine the history of income taxes in America prior to the "ratification" of the 16th Amendment.

"Under the Internal Revenue Act of 1954 if there is no gain, there is no income." - 26 U.S.C.A. '54, Sec. 61(a).

"There must be gain before there is 'income' within the 16th Amendment." U.S.C.A. Const. Am 16.

"The true function of the words 'gains' and profits' is to limit the meaning of the word 'income' and to show its use only in the sense of receipts which constituted an accretion to capital. So the function of the word 'income 'should be to limit the meaning of the words 'gains' and profits." Southern Pacific v. Lowe. Federal Reporter Vol. 238 pg. 850.

See also, Walsh v. Brewster. Conn. 1921, 41 S.Ct. 392, 255 U.S. 536, 65 L.Ed. 762..

"I assume that every lawyer will agree with me that we [congress] can not legislatively interpret meaning of the word "income." That is a purely judicial matter... The word "income" has a well defined meaning before the amendment of the Constitution was adopted. It has been defined in all of the courts of this country [as gains and profits]... If we could call anything that we pleased income, we could obliterate all the distinction between income and principal. The Congress can not affect the meaning of the word "income" by any legislation whatsoever... Obviously the people of this country did not intend to give to Congress the power to levy a direct tax upon all

the property of this country without apportionment." 1913 Congressional Record, pg. 3843, 3844 Senator Albert B. Cummins.

Compensation:"...Giving an equivalent or substitute of equal value...giving back an equivalent in either money, which is but the measure of value..." Black's Law Dictionary

"There is a clear distinction between 'profit' and 'wages' and compensation for labor. Compensation for labor CANNOT be regarded as profit within the meaning of the law. The word 'profit,' as ordinarily used, means the gain made upon any business or investment---a different thing altogether from mere compensation for labor." - Oliver v. Halstead, 86 S.E. Rep. 2d 859. (1955).

"...Reasonable compensation for labor or services rendered is not profit..." Laureldale Cemetery Assc. v. Matthews. 47 Atlantic 2d. 277 (1946)

"All are agreed that an income tax is a "direct tax" on gain or profits..." Bank of America National T. & Sav. Ass'n. V United States, 459 F.2d 513, 517 (Ct.Cl 1972).

"The phraseology of form 1040 is somewhat obscure...But it matters little [what the form says]; the statute and the statute alone determines what is income to be taxed. It taxes income 'derived' from many different sources; ONE DOES NOT 'DERIVE INCOME' [gains and profits] BY RENDERING SERVICES AND CHARGING FOR THEM." - Edwards v. Keith, 231 Fed. Rep. Note: Webster's Dictionary defines "derived" as: "to obtain from a parent substance." The property or compensation would be the parent substance and the "gain or profit" would be a separate "derivative" obtained from the substance (property or compensation). "From" means "to show removal or separation."

Public Salary Act of 1939, TITLE I - SECTION 1. "22(a) of the Internal Revenue Code relating to the definition of 'gross income,' is amended after the words 'compensation for personal service' the following: 'including personal service as an officer or employee of a State. or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing."

The Preface of 1939 Internal Revenue Code states:

"The whole body of internal revenue laws in effect January 2 1939, therefore, has its ultimate origin in 164 separate enactments of Congress. The earliest of these was approved July 1. 1862.."

"And be it further enacted, that on and after the first day of August, 1862 there shall be levied collected and paid on all salaries of officers, or payments to persons in the civil military, naval, other employment or service of the United States, including senators and representatives and delegates in Congress..."

This law was later expanded to include, "employees of the United States, the District of Columbia or any agency or instrumentality thereof whether elected or appointed." The Public Salary Act of 1939 added employee and officers of the States and Municipalities as subjects of the income tax.

"Income" as the framers and people of America understood it, was not "all that comes in"... (S. Pacific v. Lowe, 247 F. 330. (1918)) but was, as The United States Supreme Court, Lucas v. Earl, 281 U.S. 111 (1930), above, states it, was "gains and profits DERIVED FROM salaries, wages, etc." In other words, wages were NOT income, but interest FROM wages sitting in a bank, or rent received FROM property, or interest FROM a loan to another WAS "INCOME"... but was STILL subject to Constitutional law in HOW that "income" is taxed.

"Simply put, pay from a job is a 'wage,' and wages are not taxable. Congress has taxed INCOME, not compensation (wages and salaries)." - Conner v. U.S. 303 F Supp. 1187 (1969)

Sec. 30 Judicial Definitions of income. By the rule of construction, noscitur a sociis, however, the words in this statute must be construed in connection with those to which it is joined, namely, gains and profits; and it is evidently the intention, as a general rule, to tax only the profit of the taxpayer, not his whole revenue." Roger Foster, A treatise on the Federal Income Tax Under the Act of 1913, 142.

Mr. Heflin. "An income tax seeks to reach the unearned wealth of the country and to make it pay its share." 45 Congressional Record. 4420 (1909)

Mr. Heflin. "But sir, when you tax a man on his income, it is because his property is productive., He pays out of his abundance because he has got the abundance." 45 Congressional Record. 4423 (1909)

INCOME TAX: A tax on the yearly profits <u>arising from</u> property, professions, trades, and offices." Henry Campbell Black, A Law Dictionary 612 (1910).

INCOME TAX: An 'income tax' is a tax which relates to product or income <u>from</u> property or from business pursuits. Levi v. City of Louisville, 30 S.W. 973, 974, 97 Ky. 394, 28 L.R.A. 480.

"There can be no tax upon a man's right to live and earn his bread by the sweat of his brow." O'Connell v. State Bd. of Equalization, 25 P.2d 114, 125 (Mont. 1933).

"...Every man has a natural right to the fruits of his own labor, as generally admitted; and no other person can rightfully deprive him of those fruits; and appropriate them against his will..." The Antelope, 23 U.S. 66, 120.

"So that, perhaps, the true question is this: is income property, in the sense of the constitution, and must it be taxed at the same rate as other property? The fact is, property is a tree; income is the fruit; labour is a tree; income the fruit; capital, the tree; income the fruit. The fruit, if not consumed (severed) as fast as it ripens, will germinate from the seed...and will produce other trees and grow into more property; but so long as it is fruit merely, and plucked (severed) to eat... it is no tree, and will produce itself no fruit. (Income)" Waring v. Citv of Savennah. 60 Ga. 93, 100 (1878.

The point being made is that the tree (Wages, salaries, compensation) is NOT taxable, while the "fruit" of (income derived FROM) the tree CAN be, but must be Constitutionally applied.

"The right to labor and to its protection from unlawful interference is a constitutional as well as a common-law right. Every man has a natural right to the fruits of his own industry." 48 Am Jur 2d. 2, Page 80.

"The poor man or the man in moderate circumstances does not regard his wages or salary as an income that would have to pay its proportionate tax under this new system." Gov. A.E. Wilson on the Income Tax (16th) Amendment, N.Y. Times, Part 5, Page 13, February 26, 1911.

"As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law. 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 [direct], but an excise tax [indirect] upon the conduct of business in a corporate capacity, measuring however, the amount of tax by the income of the corporation". Stratton's Independence, LTD. v. Howbert, 231 US 399, 414 (1913)

"It is obvious that these decisions in principle rule the case bar if the word "income" has the same meaning in the Income Tax Act of 1913 that it had in the Corporation Excise Tax Act of 1909, and that it has the same scope of meaning was in effect decided in Southern Pacific Co. V. Lowe 247 U.S. 330, 335, where it was assumed for the purpose of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When to this we add that in Eisner v. Macomber, supra, a case arising under the same Income Tax Act of 1916 which is here involved, the definition of "income" which was applied was adopted from Stratton's' Independence v. Howbeit, arising under the Corporation Excise Tax Act of 1909, with the addition that it should include "profit gained through sale or conversion of capital assets," there would seem to be no room to doubt that the word must be given the same meaning in all Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act, and that what that meaning is has now become definitely settled by decisions of this Court."

"...it [income] should include *profit gained through a sale or conversion of capital assets'*. There would seem to be no room to doubt that the word must be given the same meaning in all of the Income Tax Acts of Congress that it was given to it in the Corporation Excise Tax Act, and what that meaning is has now become definitely settled by decisions of this court. In determining the definition of the word "income" thus arrived at, this court has consistently refused to enter into the refinements of lexicographers or economists and has approved, in the definitions quoted, what is believed to be the commonly understood meaning of the term ["gains and profits'] which must have been in the minds of the people when they adopted the Sixteenth Amendment to the Constitution..."Merchants Loan & Trust Co. v. Smietanka. 225 U.S. 509, 518, 519 (1923).

"before the 1921 Act this Court had indicated (see Eisner v. Macomber, 252 U.S. 189, 207, 64L.ed 521, 9 A.L.R. 1570, 40 S. Ct. 189), what it later held, that 'income,' as used in the revenue acts taxing income, adopted since the 16th Amendment, has the same meaning that it had in the Act of 1909.� Merchants; Loan & T. Co. v. Smietanka, 255 U.S. 509, 519, 65 L.ed.

751, 755, 15 A.L.R. 1305, 41 S. Ct. 386; see Southern Pacific Co. v. Lowe. 247 U.S. 330, 335, 62 L.ed. 114, 1147, 38 S. Ct. 540." Burnet vs. Harmel� 287 US 103

"... the Corporation Tax, as imposed by Congress in the Tariff Act of 1909 , is not a direct tax but an excise; it does not fall within the apportionment clause of the Constitution; but is within, and complies with, the provision for uniformity throughout the United States; it is an excise on the privilege of doing business in the corporate capacity..."

"The requirement to pay [excise] taxes involves the exercise of privilege." Flint v. Stone Tracey Company, 220 U.S. 107, 108 (1911).

By this decision, the Court stated that it would accept only one definition of "income" [under the 16th Amendment] and that any tax law that Congress wanted to pass under the authority of the 16th Amendment would have to use just that one definition of "income" - and that definition was the one Congress used in the 1909 Corporate Tax Act! In short, the Court was telling Congress that since the 16th Amendment was a part of the Constitution [the non-ratification issue had not yet been raised] its meaning must be fixed and permanent, and since Congress could not be trusted to stick to one single definition, the Court was giving Congress one single definition with which to work if it wished its income tax acts to pass Constitutional scrutiny by the Court.

"The obligation to pay an excise is based upon the voluntary action of the person taxed in performing the act, enjoying the privilege, or engaging in the occupation which is the subject of the excise, and the element of absolute and unavoidable demand is lacking." People ex rel. Atty Gen. v Naglee, 1 Cal 232; Bank of Commerce & T. Co. v. Seater, 149 Tenn. 441, 381 Sw 144.

"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter power to the State, but the individual's right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." Redfield v. Fisher, 292 Oregon 814, 817.

"Yet it is plain, we think, that by the true intent and meaning of the Act the entire proceeds of a mere conversion of capital assets were not to be treated as income.�Whatever difficulty there may be about a precise and scientific definition of 'income', it imports, as used here, something entirely distinct from principle 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. We must reject in this case...the broad contention submitted in behalf of the Government that all receipts. everything that comes in - are income within the proper definition of the term 'gross income'..." Doyle v. Mitchell Brother, Co., 247 US 179 (1918)

Earnings: "That which is earned; money earned; the price of services performed; the reward of labor; money or the fruits of proper skill, experience, industry; ...derived without the aid of capital, merited by labor, services, or performances. Earnings are not income." *Saltzman v. City of Council Bluffs.* 214 Iowa, 1033, 243 N.W. 161, 161.

"Income within the meaning of the Sixteenth Amendment and Revenue Act, means *'gains* '...and in such connection *'gain' means* proflt...proceeding from property, severed from capital, however

invested or employed and coming in, received or drawn by the taxpayer, for his separate use, benefit and disposal..." Income is not a wage or compensation for any type of labor. Staples v. U.S., 21 F Supp 737 U.S. Dist. Ct. ED PA, 1937].

"There is a clear distinction between 'profit' and 'wages' or 'compensation for labor.' *Compensation for labor cannot be regarded as profit within the meaning of the law...The word profit is a different thing altogether from mere compensation for labor...The* claim that salaries, wages and compensation for personal services are to be taxed *as an entirety* and therefore must be returned by the individual who performed the services which produced the gain is without support either in the language of the Act or in the decisions of the courts construing it and is directly opposed to provisions of the Act and to Regulations of the Treasury Department..." U.S. v. Balard, 575 F. 2D 400 (1976), Oliver v. Halstead, 196 VA 992; 86 S.E. Rep. 2D 858:

Black's 3rd Law Dictionary: Income: "Income is the *gain* which *proceeds from* [the investment of capital received from] labor, business or property;..." Trefry v. Putnam, 116 N.E. "Income is the *gain* derived from capital, from labor or from both combined; something of exchangeable value, proceeding from the property, *severed from the capital...and* drawn by the recipient for his separate use..." Eisner v. Macomber, 40 S. Ct 189, 252 U.S. 189, L. Ed. 521, 9 A.L.R. 1570. Goodrich v. Edwards, 41 5. Ct. 390, 255 U.S. 527, 65 L. Ed 758. *"Income* is something that *has grown out of capital,* leaving the capital unimpaired and intact." Gavit v. Irwin. (D.C.) 275 F. 643, 645. "Income is used...in law in contradistinction [contrast, opposition] to *capital."* 21 C.J. 397. "Income, [gains and profits] ...is something produced by capital *without impairing such capital,* the *property being left in tact. and nothing can be called income which takes away from the property itself'* - Sargent Land Co. v. Von Baumbach, (D.C.), 207 F. 423, 430.

Conner v. United States. 303 F. Supp. 1187 (1969) pg. 1191: "[1] ...It [income] is not synonymous with receipts."47 C.J.S. Internal Revenue 98, Pg. 226.

"Income, as defined by the supreme Court means, 'gains and profits as a result of corporate activity and profit gained through the sale or conversion of capital assets.'" Stanton v. Baltic Mining Co. 240 U.S. 103, Stratton's Independence v. Howbert 231 U.S. 399. Doyle v. Mitchell Bros. Co. 247 U.S. 179, Eisner v. Macomber 252 U.S. 189, Evans v. Gore 253 U.S. 245, Merchants Loan & Trust Co. v. Smietanka 225 U.S. 509. (1921).

U.S. Supreme Court GOODRICH v. EDWARDS, 255 U.S. 527 (1921) 255 U.S. 527 GOODRICH v. EDWARDS, Collector of Internal Revenue.No. 663. Argued March 10 and 11, 1921. Decided March 28, 1921. Mr. Justice CLARKE delivered the opinion of the Court......"And the definition of 'income' approved by this Court is: "'The gain derived from capital, from labor, or from both combined, provided it be understood to include profits gained through sale or conversion of capital assets.' Eisner v. Macomber, 252 U.S. 189, 207, 40 S. Sup. Ct. 189, 193 (64 L. Ed. 521, 9 A. L. R. 1570)."...

U.S. Supreme Court MILES v. SAFE DEPOSIT & TRUST CO. OF BALTIMORE, 259 U.S. 247 (1922) 259 U.S. 247 MILES, Collector of Internal Revenue, v. SAFE DEPOSIT & TRUST CO. OF BALTIMORE. No. 416. Argued Dec. 16, 1921. Decided May 29, 1922. Mr. Justice PITNEY delivered the opinion of the Court. ...."In that as in other recent cases this court has

interpreted 'income' as including gains and profits derived through sale or conversion of capital assets, whether done by a dealer or trader, or casually by a non-trader, as by a trustee in the course of changing investments. Merchants' Loan & Trust Co. v. Smietanka, 255 U.S. 509, 517-520, 41 Sup. Ct. 386, 15 A. L. R. 1305"....

"[1]... The meaning of income in its everyday sense is a gain... the amount of such gain recovered by an individual in a given period of time." Webster's Seventh New Collegiate Dictionary, p. 425 "Income is more or less than realized gain." Shuster v. Helvering, 121 F. 2d 643 (2nd Cir. 1941). "it [income] is not synonymous with receipts." 47 C.J.S. Internal Revenue 98, p. 226."

"[2] Whatever may constitute income, therefore, must have the essential feature of gain to the recipient. This was true when the 16th amendment became effective, it was true at the time of the decision in Eisner v. Macomber (supra), it was true under section 22(a) of the Internal Revenue Code of 1939, and it is true under section 61(a) of the Internal Revenue Code of 1954. If there is no gain, there is no income." Conner v. United States. 303 F. Supp. 1187 (1969) pg. 1191

INCOME TAX. Blacks Law Dictionary - 2nd Edition: "A tax on the yearly profits arising from property, professions, trades and offices." -See also 2 Steph. Comm 573. Levi v. Louisvill, 97 Ky. 394, 30 S.W. 973. 28 L.R.A. 480; Parker Insurance Co., 42 La. Ann 428, 7 South. 599.

"...I therefore recommend an amendment imposing on all corporations an excise tax measured by 2% in the net income of such corporations. This is an excise on the privilege of doing business as an artificial entity" President Taft, Congressional Record, June 16, 1909, Pg. 3344

While a "cash dividend" represents profit to the shareholder, and is thus "income" under the 16th Amendment, a "stock dividend" is not profit that has been "severed from capital" as is required to meet the definition of income under the 16th Amendment (ibid, Eisner). The Eisner quote featured above clearly illustrates that the apportionment clause of the Constitution is alive and well and has not been repealed or substantially altered by the 16th Amendment.

"[The Pollock court] recognized the fact that taxation on income was in its nature an excise ( ) entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct tax was adapted to prevent, in which case the duty would arise to disregard the form and consider the substance alone and hence subject the tax to the regulation of apportionment which otherwise as an excise would not apply." Brushaber v. Union Pacific RR Co., 240 US 1 (1916)

What the Brushaber court is saying is that any income tax, which has been structured as an excise tax, but is enforced in such a way as to effectively convert the tax to a direct tax, would cause the court to declare it unconstitutional due to lack of apportionment. What type of enforcement might effectively convert an excise tax to a direct tax? Once the demand for the tax money is unavoidable, and I can no longer avoid the demand and/or the collection of the tax, even when I have not engaged in any excise taxable activity, that is when the Executive Branch's enforcement of the tax has converted the tax, in substance, from an excise into a direct tax.

The 16th Amendment only pertains to "income" in the form of dividends, patronage dividends, and interest from corporate investment. The 16th Amendment tax is upon the privilege (to shareholders) of operating a business as an artificial entity. The 16th Amendment tax is not upon "income"; the income is only the yardstick used to determine the value of the privilege, and hence the amount of tax to be paid.

The 16th Amendment overturned the Pollock Decision by way of a constitutional amendment allowing income taxes on net income from real estate and personal property to be levied according to the rule of uniformity instead of the rule of apportionment.

"Indeed, in light of the history which we have given and of the decision in the Pollock Case, and the ground upon which the ruling in that case was based, there can be no escape from the conclusion that the (16th) Amendment was drawn for the purpose of doing away from the future with the principle upon which the Pollock Case was decided." Brushaber v. Union Pac. R.R. Co., 240 U.S. 1, 18 (1916).

Decided cases have made the distinction between wages and income and have refused to equate the two in withholding or similar controversies. See Peoples Life Ins. Co. v. United States, 179 Ct. Cl. 318, 332, 373 F.2d 924, 932 (1967); Humble Pipe Line Co. v. United States, 194 Ct. Cl 944, 950, 442 F.2d 1353, 1356 (1971); Humble Oil & Refining Co. v. United States, 194 Ct. Cl. 920, 442 F.2d 1362 (1971); Stubbs, Overbeck & Associates v. United States, 445 F.2d 1142 (CA5 1971); Royster Co. v. United States, 479 F.2d, at 390; Acacia Mutual Life Ins. Co. v. United States, 272 F. Supp. 188 (Md. 1967).

To further confuse the income tax issue, we have to following:

"At the very threshold of the case is the question whether an income tax is, under the provisions of the fourteenth amendment of the state constitution, a property tax, as the respondents contend, or whether it is an excise tax, as appellants contend. That question has recently been squarely presented to this court and has been definitely determined by it. Culliton v. Chase, 174 Wash. 363, 25 P.2d 81. In that case, it was held that the state income tax law of 1932 (initiative measure 69, chapter 5, Laws of 1933, p, 49, Rem. 1933 Sup., SS 11200-1 et seq.) was unconstitutional and void. Although four members of the court dissented, it was held by the majority that, under our constitution, income is property, and that an income tax is a property tax, and not an excise tax. Nothing was said, or intended to be suggested, in any of the opinions that the court, as then constituted, had receded from its former emphatic declaration that, under our constitution, income is property, and that an income tax is a property tax." Jensen v. Henneford, 185 Wash. 209, 53 P.2d 607 (1936).

The court in this case definitively ruled that income was property, and is being taxed "directly," which forces such taxation to be apportioned according to constitutional provisions for direct taxes.

However, since income has been ruled as "property," and such property is obviously used in the production of income, under excise tax laws, such income can possibly become subject to excise taxation, of course, under the rules of uniformity ONLY. In addition to this, under 26 U.S.C 212,

"all the ordinary and necessary expenses paid or incurred during the taxable year" for the production of income and for "the management, conservation, or maintenance of property held for the production of income..." would be tax deductible from ANY income taxes we would otherwise be subject to.

Despite the disregard for higher Court case law, this concession was made:

"Of course, we recognize the necessity for expenditures for such items as food, shelter, clothing, and proper health maintenance. They provide both the mental and physical nourishment essential to maintain the body at a level of effectiveness that will permit it's labor to be productive. We do not even deny that a certain similarity exists between the 'cost of doing labor' and the 'cost of goods sold' concept." Reading v. Commissioner, 70 T.C. 733, 734 (1978) case

"Excise: In current usage the term has been extended to include various license fees and practically every Internal Revenue tax except the income tax." Blacks Law Dictionary, Sixth Edition, 1990.

More Case law:

"The privilege of giving or withholding our money is an important barrier against the undue exertion of prerogative which if left altogether without control may be exercised to our great oppression; and all history shows how efficacious its intercession for redress of grievances and reestablishment of rights, and how important would be the surrender of so powerful a mediator." Thomas Jefferson: Reply to Lord North, 1775, Papers 1:225.

"If money is wanted by rulers who have in any manner oppressed the People, they may retain it until their grievances are redressed, and thus peaceably procure relief, without trusting to despised petitions or disturbing the public tranquility." *Continental Congress To The Inhabitants Of The Province Of Quebec. Journals of the Continental Congress. 1774 -1789. Journals 1: 105-13.*

"Although the [enforcement] power provisions of the Internal Revenue Code are to be liberally construed, a court must be careful to insure that its construction will not result in a use of the power beyond that permitted by law." United States v. Humble Oil & Refining Co., 488 F.2d 953 at 958 (5th Cir. 1974).

"Under the facts and the law, the Court should satisfy itself, via sworn testimony of the Defendant, that the IRS is not acting arbitrarily and capriciously, and that there was a plausible reason for believing fraud is being practiced on the revenue. The Court is free to act in a judicial capacity, free to disagree with the administrative enforcement actions if a substantial question is raised or the minimum standard is not met. The District Court reserves the right to prevent the "arbitrary" exercise of administrative power, by nipping it in the bud." *United States v. Morton Salt Co., 338 U.S. 632, 654.*

"The IRS at all times must use the enforcement authority in good-faith pursuit of the authorized purposes of Code." *U.S. v. La Salle N.B., 437 U.S. 298 (1978).*

"A statute must be set out in terms that the ordinary person exercising ordinary common sense can sufficiently understand and comply with, without sacrifice to the public interest." *See Arnett v. Kennedy*, 416 U.S. 134, 159, 40 L. Ed. 2d 15, 94 S. Ct. 1633 (1974) (quoting *United States Civil Serv. Commission v. National Association of Letter Carriers*, 413 U.S. 548, 579, 37 L. Ed. 2d 796, 93 S. Ct. 2880 (1973).

ROBERT C. MCKEE v. COMMISSIONER OF INTERNAL REVENUE No. 04-74846 IRS No. 4036-03:

The Tax Court held the IRS was not liable for their calculation blunders on the basis that the Tax Court, in its discretion, claimed the regulations written by the IRS and codes were so complex that the IRS could not be held liable for its failure to understand them. On December 4, 2006, the 9th Circuit reversed the United States Tax Court. The Commissioner of the Internal Revenue asked the 9th Circuit not to make the decision public.

If the IRS can't understand the tax code, and makes mistakes accordingly, how can the average American be held accountable? The IR Code and Constitution are clear enough to understand for those seeking the truth and rule of law, and NOT confused by fraud, lies and confusing verbiage meant to confuse the public.

How do the "People" judge the actions of the IRS and related agencies, in light of these case rulings? Where does the Federal Government have jurisdiction and to whom do the "People" owe allegiance?

" The income tax system is based upon voluntary compliance, not distraint." United States Supreme Court, Flora v. United States, 362 US 145. Helvering v Mitchell, 303 U.S. 391, 399, 82 L ed 917, 921

"The tax system is based on voluntary compliance..." 26 CFR 601.602

Voluntary: 1) given freely without compulsion, 2) having the power of free choice - Webster's Dictionary

Voluntary: 1 a: proceeding from one's own free choice or consent rather than as the result of duress, coercion, or deception b: not compelled by law: done as a matter of choice or agreement

"The information revealed in the preparation and filing of an income tax return is, for the purposes of Fifth Amendment analysis, the testimony of a witness." Government compels the filing of a return much as it compels, for example, the appearance of a `witness' before a grand jury." 1975: Garner v. United States, 424 U.S. 648.

Distraint: 1) to force compulsion, 2) to seize and hold goods of another in order to obtain satisfaction of a claim for damages, 3) to levy a distress. - Webster's Dictionary.

"The IRS's primary task is to collect taxes under a voluntary compliance system-- Jerome Kurtz, IRS Commissioner.

"Our tax system is based on individual self-assessment and voluntary compliance." Mortimer Caplin, IRS Commissioner.

"Each year American taxpayers voluntarily file their tax returns..."Johnnie Walters, IRS Commissioner.

"Let me point this out now. Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now the situation is as different as day and night. Consequently, your same rules just will not apply," Testimony of Dwight E. Avis, Head of the Alcohol and Tobacco Tax Division of the Bureau of Internal Revenue, before the House Ways and Means committee on Restructuring the IRS (83rd Congress, 1953).

Voluntary compliance can only respond to a request or as a choice. It cannot and does not respond to a requirement. The word "voluntary," which connotes an agreement, implies willingness, volition, and intent. It suggests a freedom of choice and refers to the doing of something which a person is free to do or not to do, as he so decides.

"In its legal aspect, and as commonly used in law, the word 'voluntary' is defined as meaning gratuitous; without valuable consideration; acting, or done, of one's own free will without valuable consideration, acting, or done, without any present legal obligation to do the thing done." Corpus Juris Secundum (C..J.S. 92: 1029, 1030, 1031).

In the IR Code and other government records, I can find NO definition for "dollar." On the 1040 form, I am expected to sign, under the penalty of perjury, that everything is true and correct regarding "income," however, if I have no way of understanding what a "dollar" is, and there is no way for me to measure it in legal terms, how can I attest to any supposed income being measured by "dollars" as being accurate? In the days of tangible money, or sound money, or even just plain money, as opposed to "credit," the dollar was easy to define: 412.5 grains of standard (90% pure) silver in coin form. The 412.5 grain figure was an average; the coin weighed 416 when minted. When, through wear and tear, its weight fell below 409 grains, it was no longer a dollar, but could be used in trade for a value in proportion to its weight. If a "dollar" has no legal identity, does it actually exist as a real comodity?

I could voluntarily and willingly file a 1040 and pay taxes according to IRS schedules to contribute to government expenses CONTRARY to constitutional authority. I could ALSO voluntarily enter into a taxable activity, such as a corporation, where excise taxes are required. I "voluntarily" can enter into this taxable activity and make myself potentially liable for income taxes. I choose to do neither.

Since the "income" tax is "voluntary," how can the IRS or other government agencies force payment, especially without due process of law? How can it be made a "law" which all Americans are forced to comply with?

"The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose, since its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had

never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to super cede any existing law. Indeed insofar as a statute runs counter to the fundamental law of the land, (the Constitution - JTM) it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it." NORTON v. SHELBY COUNTY, 118 U.S. 425 (1886)

"WAIVERS OF CONSTITUTIONAL RIGHTS NOT ONLY MUST BE VOLUNTARY, THEY MUST BE KNOWINGLY INTELLIGENT ACTS DONE WITH SUFFICIENT AWARENESS OF THE RELEVANT CIRCUMSTANCES AND CONSEQUENCES." Brady v. U.S. 397 U.S. 742 at 748

(See Attachment F).

The Constitution and case law is clear; Most Americans are NOT liable to pay "income" taxes, and are free to ignore all unconstitutional activities and claims.

I present this as further evidence of crimes being committed on a daily basis, and require responsible parties to act on this criminal knowledge by commencing a Grand Jury to publicly investigate this or be personally liable.

Jeffrey- Thomas: Maehr, Copyright (C) 2006, All rights reserved.

See original missing pages