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U.S. COURT OF APPEALS
10TH CIRCUIT

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

2016 SEP 30 AM 11:19

Jeffrey T. Maehr,

Plaintiff/Petitioner - Appellant,

v.

- John Koskinen, Commissioner of Internal Revenue;
- John Vencato, Revenue Agent;
- Ginger Wray, Revenue Agent;
- Jeremy Woods, Disclosure Specialist;
- William Sothen, Revenue Agent;
- Gary Murphy, Revenue Agent;
- Theresa Gates, Program Manager;
- Sharisse Tompkins, Disclosure Manager;
- Carolyn Colvin, Acting Social Security Administrator;
- Wells Fargo Bank, NA;
- John and Jane Does, 1-100,

Defendants/Respondents - Appellees.

Case No. 16-1204

Addendum to Reply

ADDENDUM TO REPLY - 16TH AMENDMENT EVIDENCE

Plaintiff comes before this court with this Addendum containing further recently discovered supporting evidence that, contrary to Federal Defendant's claims that the 16th Amendment authorizes a tax on Plaintiff's wages, (or anything else it wants to call "income"), lawful "income" tax existed prior to the 16th Amendment, and as the U.S. Supreme Court has repeatedly confirmed, the 16th Amendment did NOT create any new ⁽¹⁾ form of taxation that did not already exist.

¹ Plaintiff's Opening Brief, Footnote 10, P. 7: "The Sixteenth Amendment to the Constitution has not enlarged the taxing power of Congress..." This is brought out clearly by this court in *Brushaber v. Union Pacific Railroad Co.*, 240 U.S. 1, and *Stanton v. Baltic Mining Co.*, 240 U.S. 103. "We are of opinion, however, that the confusion is not inherent, but rather arises from the conclusion that the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to

The 16th Amendment says the Pollock court's conclusion⁽²⁾ was wrong (or, in any event, is overruled). The 16th Amendment provides that Congress can continue to apply the income tax to gains that qualify as "incomes" (that is, the subclass of receipts that had always been subject to the "income" excise due to being the product of an exercise of privilege) without being made to treat the tax as direct and needing apportionment when applied to dividends and rent by virtue of judicial consideration of the source. The 16th Amendment merely says that privileged gains can't escape the tax by resorting to Pollock's "source" argument.

Huge portions of our modern body of lawful "income" tax law pre-date the 16th Amendment, (back to July 1, 1862). This is plainly stated in the preface (P. iii) to the 1939 Internal Revenue Code⁽³⁾. Congress published a comprehensive "Derivation of Code Sections of the Internal Revenue Code of 1939 and 1954" table⁽⁴⁾, dated January 21, 1992, which explicitly identifies the pre-16th origins of these still-current statutes.

It must be noted that the 1986 Internal Revenue Code is based on these and prior documents and is still in place today. Throughout the Derivation table, it will be noted that there are well over 100 examples of pre-16th Amendment enactment

the regulations of apportionment applicable to all other direct taxes. And the far-reaching effect of this erroneous assumption will be made clear by generalizing the many contentions advanced in argument to support it." *Brushaber v. Union Pac. R.R. Co.*, 240 U.S. 1, 11, 12, 18 (1916);

"In the former case it was pointed out that the all-embracing power of taxation conferred upon Congress by the Constitution included two great classes, one indirect taxes or excises, and the other direct taxes, and that of apportionment with regard to direct taxes. It was held that **the income tax in its nature is an excise**; that is, it is a tax upon a person measured by his income . . . It was further held that the effect of the Sixteenth Amendment was not to change the nature of this tax or to take it out of the class of excises to which it belonged, but merely to make it impossible by any sort of reasoning thereafter to treat it as a direct tax because of the **sources from which the income was derived**." ([14-15]; *Peck & Co. v. Lowe*, 247 U.S. 165 (1917). Brief for the Appellant at 11, 14-15; See also *Stratton's Independence, LTD. v. Howbert*, 231 US 399, 414 (1913)." (Emphasis added - "derived from" discussed below). "... It manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation." *Evans vs. Gore*, 253 US 245, 263 (1920). "It was not the purpose or effect of that amendment to bring any new subject within the taxing power." *Bowers v. Kerbaugh-Empire Co.*, 271 U.S. 170; 46 S.Ct. 449 (1926);

² The Pollock court embraced an argument that when applied to excisable gains realized in the form of dividends and rent, the "income" tax was transformed into a property tax on the personal property sources (stock and real estate) from which the gains were derived. (*Pollock v. Farmer's Loan & Trust*, 157 U.S. 429, and 158 U.S. 601, (both 1895).

³ Not provided herein, as it is 507 pages in length.

⁴ Not provided herein, as it is 177 pages in length.

date (in 1913) throughout, proving that the "income" tax was not "enacted" through the 16th Amendment.

The conclusion by IRS Defendants that the "income" tax was authorized by the 16th Amendment is erroneous and frivolous. The "income" tax was always a tax on federal privilege and was, and still is) an "excise" tax. Wages, salary or compensation for services were never subject to such a tax, and were never equated as "income" prior to the 16th Amendment, so they can hardly be suddenly made to be something that never was, and certainly cannot be applied to whatever Defendants want to call "income."

The issue is a simple one which the U.S. Supreme Court clearly defined and clarified... "the 16th Amendment conferred no new power of taxation" on wages, salary or compensation for services. Such a tax never existed prior to the 16th Amendment, and certainly cannot lawfully exist today. Wages are NOT the subject of the 16th Amendment, and no law or evidence is of record make it so.

The obvious and simple questions that are once again presented to Defendants and this court are...

1. "By what law is the IRS using to make Plaintiff's wages 'income'?"
2. By what law is the IRS assessing Plaintiff on all his business assets as "income", which is not of record?"
3. "By what law can Defendants levy Plaintiff's Social Security in its entirety, and attacking his V.A. Disability Compensation counter to standing laws on such levy?"

Plaintiff would remind the court of a well-known quote:

"When a well-packaged web of lies has been sold gradually to the masses over generations, the truth will seem utterly preposterous and its speaker a raving lunatic." Dresden James.

The evidence is clear!

Respectfully submitted,

9-27-16
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Jeffrey T. Mack
Signature

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