TAXATION BY MISREPRESENTATION

The Truth about Income Taxes in Plain English

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

When a man who is honestly mistaken hears the truth, he will either quit being mistaken, or cease being honest. – Unknown

Men occasionally stumble over the truth, but most of them pick themselves up and hurry off as if nothing had happened. – Winston Churchill

There are two mistakes one can make along the road to truth – not starting, and not going all the way. – Buddha

Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has. – Margaret Mead

I, John Benson, decided long ago to find the truth about our Founding documents and to go all the way with it! I hope that you will feel the same after you have read this book.

Table of Contents

DISCLAIMER

The purpose of this book is simply to communicate and provide information. I am not an attorney licensed to practice law; this book is not designed to provide specific legal advice to anyone or to solicit clients for legal purposes. If you are seeking legal advice, I suggest that you contact and discuss your particular legal problem with a lawyer from the state where you live.

This book is purely a resource of information that I have gathered over the years and that is intended, but not promised or guaranteed, to be correct, complete, and up-to-date. This book is not a source of advertising, solicitation, or legal advice, and thus the material provided in this book is not intended to create, and the receipt of it does not constitute, a source of legal advice upon which you may rely. Internet subscriber and on-line reader should not rely on information provided herein, and should always seek the advice of competent counsel in the reader's state. The author of this book cannot represent anyone in any court proceedings.

Nothing in this book is intended to stop or discourage any individual from timely filing the usual tax returns and paying the usual income taxes that the Internal Revenue Service and the courts appear to require. To the contrary, I firmly believe that the battle to reform the current income-tax system should be fought in the political debates, especially those debates in the election year 2012. If the information in this book can be placed before a great many of the electorate and the candidates for the various national offices in 2012, I believe that there will be an outcry for reform of the tax system that will be heard from Maine to Hawaii, from Florida to Alaska.

The information presented within this book is not intended to be and should not be considered as legal advice and it is posted solely for educational and political purposes.

John Benson
January 17, 2012
Salt Lake City, Utah

I FIRMLY BELIEVE AND HAVE ALWAYS TAUGHT THAT THE INTERNAL REVENUE CODE COMPLIES WITH THE CONSTITUTION

In *Bowers v. Kerbaugh-Empire Co.*, 271 U.S. 170 (1926), the Supreme Court stated:

> "The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, 'from whatever source derived' without apportionment among the several states, and without regard to any census or enumeration. **It was not the purpose or effect of that amendment to bring any new subject within the taxing power**. Congress already had power to tax all incomes. But taxes on incomes from some sources had been held to be 'direct taxes' within the meaning of the constitutional requirement as to apportionment. Art. 1, 2, cl. 3, 9, cl. 4; *Pollock v. Farmers' Loan & Trust Co.*, 158U.S. 601, 15 S. Ct. 912. The Amendment relieved from that requirement and obliterated the distinction in that respect between taxes on income that are direct taxes and those that are not, and so put on the same basis all incomes 'from whatever source derived.' *Brushaber v. Union Pac. R. R.*, 240 U.S. 1, 17 , 36 S. Ct. 236, 241 (60 L. Ed. 493, L. R. A. 1917D, 414, Ann. Cas. 1917B, 713). **'Income' has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909** (36 Stat. 112), in the Sixteenth Amendment, and in the various revenue acts subsequently passed. *Southern Pacific Co. v. Lowe*, 247 U.S. 330, 335, 38 S. Ct. 540; *Merchants' L. & T. Co. v. Smietanka*, 255 U.S. 509, 219, 41 S. Ct. 386, 15 A. L. R. 1305. After full consideration, this court declared that income may be defined as gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. *Stratton's Independence v. Howbert*, 231 U.S. 399, 415 , 34 S. Ct. 136; *Doyle v. Mitchell Brothers Co.*, 247 U.S. 179, 185 , 38 S. Ct. 467; *Eisner v. Macomber*, 252 U.S. 189, 207 , 40 S. Ct. 189, 9 A. L. R. 1570. And that definition has been adhered to and applied repeatedly. See, e. g., *Merchants' L. & T. Co. v. Smietanka*, *supra*, 518 (41 S. Ct. 386); *Goodrich v. Edwards*, 255 U.S. 527, 535, 41 S. Ct. 390; *United States v.Phellis*, 257 U.S. 156, 169 , 42 S. Ct. 63; *Miles v. Safe Deposit Co.*, 259 U.S. 247, 252 , 253 S., 42 S. Ct. 483; *United States v. Supplee-Biddle Co.*, 265 U.S. 189, 194 , 44 S. Ct. 546; *Irwin v.Gavit*, 268 U.S. 161, 167, 45 S. Ct. 475; *Edwards v. Cuba Railroad*, 268 U.S. 628, 633 , 45 S. Ct. 614. In determining what constitutes income substance rather than form is to be given controlling weight. *Eisner v. Macomber*, *supra*, 206 (40 S. Ct. 189)."

Bowers, 271 U.S. at 273-74. I have left all the citations in this quotation for those who may wish to validate my research.

My 35 years of research have demonstrated to my satisfaction that Internal Revenue Code (IRC) §1 imposes liability to the individual income tax on those with income from corporate stock or other activities on which Congress has imposed an excise tax.

Nevertheless, I am firmly committed to using education and the political process, including the debates in this year's (2012) electoral campaigns, to bring about substantive changes in the application and enforcement of what I believe to be excesses and unwarranted civil actions and criminal prosecutions by the IRS, the U.S. Department of Justice and the courts.

I do not intend for anything I write within this book to be interpreted, used, construed or represented as my encouragement or approval of any actions by individuals to stop the filing of the usual Tax forms and paying the usual taxes as are claimed to be required by the IRS and the

courts. To the contrary, I believe that the only viable means, at this time, by which to bring about substantive changes in our current tax system is through education of millions of Americans as to what I believe to be the truth about income taxes in plain English. Once millions are educated, both politicians and the courts will see the wisdom of making what I believe are the proper legal changes and rulings required in order to bring the unwarranted actions of government taxing authorities back under the control of the People.

I believe that many views of the tax system, although long held, simply do not stand up to the truth, upon close examination. "Upon this point, a page of history is worth a volume of logic." *New York Trust Co. v. Eisner*, 256 U.S. 345, 349 (1921) (Justice Oliver Wendell Holmes, Jr., for the Court).

Here is what Justice Jackson had to say on this very topic:

> Progress generally begins in skepticism about accepted truths. **Intellectual freedom means the right to reexamine much that has been long taken for granted**. A free man must be a reasoning man, and he must dare to doubt what a legislative or electoral majority may most passionately assert. The danger that citizens will think wrongly is serious, but less dangerous than atrophy from not thinking at all. Our Constitution relies on our electorate's complete ideological freedom to nourish independent and responsible intelligence and preserve our democracy from that submissiveness, timidity and herd-mindedness of the masses which would foster a tyranny of mediocrity. The priceless heritage of our society is the unrestricted constitutional right of each member to think as he will. Thought control is a copyright of totalitarianism, and we have no claim to it. **It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the Government from falling into error**. We could justify any censorship only when the censors are better shielded against error than the censored.

American Communications Assn v. Douds, 339 U.S. 342, 443 (1950) (Jackson, J., concurring and dissenting, each in part) (emphases added).

Justice Brandeis said much the same, earlier:

> Those who won our independence believed that the final end of the State was to make men free to develop their faculties, and that, in its government, the deliberative forces should prevail over the arbitrary. They valued liberty both as an end, and as a means. They believed liberty to be the secret of happiness, and courage to be the secret of liberty. They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that, without free speech and assembly, discussion would be futile; that, with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that **public discussion is a political duty, and that this should be a fundamental principle of the American government**.[1] They recognized the

---

[1] *Compare* Thomas Jefferson:
"We have nothing to fear from the demoralizing reasonings of some, if others are left free to demonstrate their errors and especially when the law stands ready to punish the first criminal act produced by the false reasonings; these are safer corrections than the conscience of the judge."
Quoted by Charles A. Beard, *The Nation*, July 7, 1926, vol. 123, p. 8. Also in first Inaugural Address:

> risks to which all human institutions are subject. But they knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that **the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies**, and that the fitting remedy for evil counsels is good ones. Believing in the power of reason as applied through public discussion, they eschewed silence coerced by law – the argument of force in its worst form. **Recognizing the occasional tyrannies of governing majorities, they amended the Constitution so that free speech and assembly should be guaranteed**.

Whitney v. California, 274 U.S. 357, 375-76 (1927) (Brandeis, J., concurring) (footnote in original) (emphases added).

Justice Hugo Black said much the same thing:

> "Since the earliest days philosophers have dreamed of a country where the mind and spirit of man would be free; where there would be no limits to inquiry; where men would be free to explore the unknown and to challenge the most deeply rooted beliefs and principles. Our First Amendment was a bold effort to adopt this principle - to establish a country with no legal restrictions of any kind upon the subjects people could investigate, discuss and deny. The Framers knew, better perhaps than we do today, the risks they were taking. They knew that free speech might be the friend of change and revolution. But they also knew that it is always the deadliest enemy of tyranny. With this knowledge they still believed that the ultimate happiness and security of a nation lies in its ability to explore, to change, to grow and ceaselessly to adapt itself to new knowledge born of inquiry free from any kind of governmental control over the mind and spirit of man. Loyalty comes from love of good government, not fear of a bad one."

Hugo L. Black, *"The Bill of Rights," 35 New York University Law Review 865, 880-81 (1960)*

I wish the information within this book to be seen in light of both the letter and spirit of these quotations by these four justices of the United States Supreme Court. I have taken a look at not just one page, but at many pages, of history and have seen that today's IRS enforcement actions, both inside and outside of the courts, simply do not meet the standards set forth by the Supreme Court.

Nevertheless, as I state repeatedly throughout this book, I neither advocate nor do I condone any actions or failures to act, based upon the contents of this book, that would be used to justify any person from complying with those duties required by the IRS and the courts in tax matters.

The time for seeking judicial review of the actions of the IRS and the courts will come only after several million Americans have become thoroughly familiar with the "pages of history" that I have endeavored to bring to light herein.

"If there be any among us who would wish to dissolve this union or change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it."

Were a group of Americans to take it upon themselves to stop paying taxes, based upon what they have read in this book, the IRS would seek and the courts would issue an injunction (prohibition) against my publication of the information herein, prosecute many of the non-filers and non-payers criminally, and impose draconian civil penalties on the rest for taking such actions.

Therefore, for their sakes and for the sake of those millions of Americans who hunger and thirst for the truth about income taxes in plain English, I plead with all my heart that no one will stop filing their normal tax returns and paying the taxes that the IRS and the courts appear to require. I believe that, if several million Americans are enlightened by the research I have set forth herein, the present tax system will be drastically altered for the better and no one will have to go to prison or see their lives, families, homes and businesses destroyed in the process.

Should anyone, pretending to represent my views, advocate that anyone stop filing returns or paying taxes in the usual manner, I specifically disavow such advocacy and hereby disassociate myself from their views.

In addition to writing this book as a means of informing the American People of my research findings of the last 35 years, I have also written it as part of my continuing efforts to seek judicial review of my tax conviction and that of my co-defendant, Glenn Ambort. While neither he nor I possess the necessary funds, at this time, to hire the considerable legal resources required to overturn our convictions, it is my sincere hope that, once millions of Americans become aware of my research into these matters, not only will I possess the funds to retain such counsel, but I also hope that both the political and legal landscape in America will have so changed as to allow the courts to see the wisdom of bringing about what both Glenn and I deem to be the proper legal analysis of tax cases, such as ours and others, and wipe the stain and blemish from our names, as well as from the thousands, perhaps millions, of other Americans who have, in my opinion, been wrongly tarnished and damaged, both civilly and criminally, by the taxing authorities and the courts of our great Nation.

While I have written and expressed my thoughts in this book as clearly and as plainly as I am able, I do not intend for anything I have written herein to malign or impugn the personal integrity of any individual who may have acted against me in my endeavors to bring truth about income taxes to the American People. I know that Glenn feels the same and has asked me to convey his similar feelings in this regard.

Having said that, I intend to carry on the struggle for truth in taxation with all the strength God has given me until the battle is won or my God calls me home.

FOREWORD

Millions of Americans faithfully pay individual income taxes each year without any questions and without knowing what law, if any, makes them liable to the taxes they so freely pay. Millions of others – over 30 million, by some estimates – fail or simply refuse to do so.

I, myself, have researched federal income-tax laws for some 35 years and have been unable to discover any law that clearly and unequivocally makes the average individual liable to federal income taxes on income received from their occupations of right. My associate, Glenn Ambort, has been unable to find such a law in his 20 years of research. We have read the decisions of the courts in thousands of tax cases, including cases decided by the Supreme Court of the United States. Yet, not a single case provides a simple, straight-forward explanation of the law or tax regulation that makes us liable to the individual federal income taxes paid by most Americans year after year. As explained below, there are some kinds of income that are definitely taxable.

We have asked judges, attorneys, tax accountants, members of Congress, and officials of the Internal Revenue Service (IRS) what makes us liable, yet have been met universally with blank stares. They simply have no answer. Perhaps you've tried and found the same results. (If you've had better results, I'd love to hear from you.)

When I began my 35-year search into these matters, I spent thousands of dollars and countless hours attending seminars and workshops put on by those who had looked into the nature of the tax laws. I read numerous books, treatises, papers, and articles by those who claimed to have a grasp of the subject. Yet, I never found what I felt to be a completely accurate understanding or explanation of the true nature and character of federal individual income taxes. To be fair, I did find some truth in almost everything I heard and read, but often the information from one source seemed to contradict that from others. I decided that I would have to begin my search from scratch without someone else's "road-map" to guide me.

Little did I realize that my search would require over 35 years, including some 5 ½ years in federal prison, before I was able to come to a complete and accurate understanding of the federal income tax laws and then be able to share that understanding with you, my dear reader, in a manner that is easy to grasp. For, as you probably already know, income tax laws are extremely difficult to understand.

Glenn, I and four of our associates were convicted of tax crimes for which we cannot be guilty under the law. However, as we discovered, when it comes to taxes, the law often doesn't mean much to the prosecutors and judges who handle such cases. It may surprise you to know, as it did me, that there are literally thousands of individuals in federal prisons who were convicted by the prosecutors' use of knowingly false evidence or incorrect law simply to gain a conviction and to advance their careers. The judges simply turn a blind eye to such tactics. Many of the judges are former prosecutors and know full well what is taking place in their courtrooms.

The great Chief Justice of the Supreme Court, John Marshall, said that the greatest punishment an angry heaven could inflict upon an ungrateful people was an ignorant or corrupt judiciary. I am sad to say that we have both in many instances. I recognize that there are many judges who are exceptions to this statement, and I do not intend to condemn the entire federal judiciary. It has been my consistent observation in cases that I have read, become familiar with or that I have personally witnessed, that the vast majority of federal judges are either woefully ignorant of the tax laws or are simply corrupt. Their conflict of interest causes them to rule in ways that serve

their personal self-interest upon which their futures depend. Perhaps you've noticed the same. A little matter of false evidence or a twisting of the law rarely stands in the way of a federal prosecutor or judge who wants your conviction. Though the law charges the prosecutor with protecting the innocent as well as prosecuting the guilty and charges the judge with impartiality between parties, even where the government is a party, taxes are the life-blood of government, and self-interest prevails over impartiality in almost every tax case I have ever read.

I share these thoughts with you, not out of any sense of bitterness or anger, but as words of friendly counsel and warning. I believe the material you will find herein will convince you beyond any reasonable doubt that individual federal income taxes are and must be completely voluntary both in law and in fact, in most cases, that the tax Code itself is written to make them voluntary, and that there are lawful procedures available to reduce your individual federal income taxes to zero.

However, I must urge upon you the greatest caution before you decide to stop filing federal income tax returns or paying federal income taxes. Indeed, I would caution you not to stop doing either. Simply following the law correctly is no longer enough to keep anyone out of federal prison. The feds, as they are affectionately known by many, will manufacture a story that they can tell to the judge and the jury that will make whatever you may plan to do a tax crime and do all in their power to see that you are financially ruined, spend years in federal prison, and run the risk of losing your income, your business, your family and most of your friends. Trust me; I've found out the hard way. In tax cases, the federal courts today are little more than a kindlier, gentler Tiananmen Square.

The prosecution has learned how to "play" the jury. Prosecutors will tell the jury that, if they let you go free, all other "honest taxpayers," meaning members of the jury, will have to pay more. How would you like to have your freedom and all you love and have worked for throughout your life hang in the balance, to be weighed by a supposedly unbiased jury? Why do you think the feds have a 98% conviction rate in tax cases?

My advice to you, dear reader, is to file the usual tax forms and pay the customary income taxes each year. Share what you learn herein with others, especially with those whom you know will never enter into the fight for our rights and freedoms. Only when masses of the People come to understand the true nature and character of the individual federal income-tax system will they be willing and able to change the present fraudulent tax system into an honest one. In time, some are bound to end up on the juries that will determine the fate of the warriors who are willing to stand up and fight. Those citizens who now seem timid or reluctant may, in the end, be in a position to set free those of us who have been willing to draw a line in the sand and found ourselves sitting at the defendant's table in a tax prosecution. Remember the ancient saying: "They also serve who only stand and wait." It is important that you share what you learn here with as many others as you can. Your freedom, the freedom of your children, my freedom and the freedom of our nation depends, not only on those called to do battle, but also upon those who carry on quiet lives, making no waves and, therefore, are most likely to be admitted into the jury-box to determine the future of our nation.

This book is meant to be easy to read without a lot of citations to laws, regulations and cases, something that those who are only mildly curious about income taxes might find enjoyable to read. It will show you how the tax Code itself, if properly understood, makes federal income taxes voluntary in most cases. It will also show you how the tax Code appears to make the filing of an individual income tax return and the paying of the tax mandatory. I think that, if I write a comprehensive, "all-in-one" book, the only people who will read it are those who are already dedicated opponents of the current federal income-tax system. I hope that a book that is easy to

read will be less intimidating and reach a much wider audience. We cannot win the fight alone; we need masses of informed Americans in order to make a difference.

Our experience shows that the battle for a more just and honest tax system today is not a legal battle; it is a political battle. The American citizenry has gone along with our current tax system for a variety of reasons. Aside from the draconian penalties which have been used to enforce it, a major reason is the innocent ignorance of most people about the fraudulent nature of the current tax system. I believe it was the great Mahatma Gandhi who said that the job of a civil resister is to bring to light the evil or injustice that is committed in the dark. And so it is with our tax system. Nothing will ever be changed without the support and political muscle of at least a sizeable minority of the people. We will not gain that support until such a minority has a good grasp of what the true nature of our income tax system is and how the law has been twisted to suit a particular political agenda that neither values freedom nor adheres to the Constitution.

However, I want to include sufficient detail herein in order to address the means by which the IRS, the U.S. Department of Justice, and the federal judiciary have taken advantage of our collective ignorance of the true nature of income tax and have intimidated millions of Americans into volunteering to a tax that, in most cases, under the Constitution, can only be voluntary.

Therefore, I have also included material that is much more technical and cited legal cases, laws and regulations. These parts may appeal primarily to those who have already entered the battle. My book is not intended to encourage anyone to quit filing returns or paying income taxes. I intend to write a second book specifically designed to assist attorneys in defending those individuals who are already in harm's way with the IRS.

So, there may be two different audiences who will read this book. If you want to come to a clear understanding of exactly what the tax is and how it applies, then the less technical parts of the book will suffice. If you are already engaged in the battle, intentionally or unintentionally, you will want to read the more technical parts of the book.

My long research and the conditions of prison have caused me to go nearly blind. So, I have asked Glenn to edit this book for me and for which I thank him.

Roger Sayles has served as my advance, PR man, in many instances, for which service I am deeply indebted. Roy has been my constant source of help and encouragement and without whom I don't know how I could have overcome the hurdles in my path. I am indebted to Jason Mugg, my webmaster, who will handle all the techie stuff with which I am dreadfully unfamiliar!

Finally, I wish to thank all the many thousands and millions of Americans who have gone before me and who have contributed to the knowledge that I have gained over the years and that appears within my book. Many of them paid the ultimate price for knowledge that I possess and that I now hand to you, dear reader. Ours is a marathon race, and each generation hands to the next the baton of knowledge until the race is won! And so, I now hand you the first half of the baton and will hand the second half to you in Book II.

John Benson
January 17, 2012
Salt Lake City, Utah

Chapter 1

TAX RETURNS FORM THE PILLARS OF THE INCOME-TAX SYSTEM.

The amount of income tax individuals owe, their tax liability, is determined by the Secretary of the Treasury, through his Internal Revenue Service (IRS) officials, and is recorded in the various IRS offices around the Country.[2]

The amount of the assessment or tax liability is the amount shown by the taxpayers on their returns,[3] if they filed them.

What happens if the individuals failed to file returns? The IRS still considers that the individuals actually filed returns, showing that they owed zero taxes.[4] In this case, the IRS goes through what they call their deficiency procedures, essentially, an accounting method designed to calculate the taxes due under the Internal Revenue Code (IRC).

The point of this very short opening Chapter is to demonstrate that not a single wheel turns in the IRS "tax factory" until a return has been filed either by the individuals or by the Secretary, i.e., by his IRS officials.

Why is this important to understand? When we get to the heart of this Book, I will show you why the Supreme Court of the United States has held that, without a filed return, the IRS cannot collect a single penny of income taxes.

An understanding of the crucial role of a tax return is absolutely essential to understanding the truth about today's federal income-tax system. Justice Holmes' statement, given in a different context, is applicable to understanding today's tax system: "Upon this point, a page of history is worth a volume of logic." *New York Trust Co. v. Eisner*, 256 U.S. 345, 349 (1921) (Justice Oliver Wendell Holmes, Jr., for the Court).

---

[2] § 6203. METHOD OF ASSESSMENT
The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

[3] § 6201. ASSESSMENT AUTHORITY
(a) Authority of Secretary
The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:
(1) Taxes shown on return
The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

[4] 26 CFR § 301.6211-1(a) Deficiency defined
If no return is made, or if the return (except a return of income tax pursuant to sec. 6014) does not show any tax, for the purpose of the definition "the amount shown as the tax by the taxpayer upon his return" shall be considered as zero.

Chapter 2

WHAT CONSTITUTES TAXABLE INCOME?

The opening sentence of the IRC imposes a tax on the "taxable income" of virtually every individual, from Wall Street moguls to grandmothers who knit baby blankets to supplement their Social Security income.[5]

Nowhere within the IRC or its tax or Treasury regulations is the term "income" defined. Taxable income is defined as "gross income" less allowable deductions and exemptions set forth in the tax Code and its regulations.[6]

"Gross income" has a very special meaning within the IRC and its regulations.

> § 61. GROSS INCOME DEFINED
> **(a) General definition**
> Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:
> [listing numerous items][7]

However, the Treasury Regulation for this section of the tax Code contains four words not included in the above IRC definition: "unless excluded by law."

> 26 CFR § 1.61-1 Gross income.
> (a) General definition. Gross income means all income from whatever source derived, *unless excluded by law*.

(Emphasis added).

The 1943 tax regulations were much more helpful than the current regulations. The regulations used a different numbering system in 1943, but that is not important. Treas. Reg. § 39.21 (Meaning of net income)[8] made clear that income taxes are not imposed on "income exempted by statute or fundamental law." "Net income," in 1943, was the equivalent of "taxable income" in today's tax Code.

---

[5] § 1. TAX IMPOSED
(a) Married individuals filing joint returns and surviving spouses
There is hereby imposed on the taxable income of—
(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and
(2) every surviving spouse (as defined in section 2 (a)),
a tax determined in accordance with the following table: [and then lists heads of households, singles, etc.]

[6] § 63. TAXABLE INCOME DEFINED
(a) In general
Except as provided in subsection (b), for purposes of this subtitle, the term "taxable income" means gross income minus the deductions allowed by this chapter (other than the standard deduction).

[7] When I use hard brackets "[ ]", it means that I have added the data inside the hard brackets.

[8] Treas. Reg. § 39.21-1 (1943) Meaning of net income. (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.

"Statute" law means those laws passed by Congress. "Fundamental law" is the Constitution. See *Chisholm v. Georgia*. 2 U.S. 419, 433 (1793) ("I have no hesitation to say that any act to that effect would be utterly void, because it would be inconsistent with the Constitution, which is a fundamental law paramount to all others") (Justice Iredell).

However, Treas. Reg. § 29.22(b)-1 (Exemptions; exclusions from gross income)[9] is even more explicit. It states that "gross income" excludes "those items of income which are, under the Constitution, not taxable by the Federal Government."

This same statement is buried in today's regulations for corporations:

> 26 CFR § 1.312-6 **Earnings and profits**
> . . .
> (b) Among the items entering into the computation of corporate earnings and profits for a particular period are all income exempted by statute, *income not taxable by the Federal Government under the Constitution*, as well as all items includible in gross income under section 61 or corresponding provisions of prior revenue acts. (Emphasis added.)

If you will browse the Internet on the topic of taxes, you will find that a spirited debate exists as to what "items of income are, under the Constitution, not taxable by the Federal Government."

Likewise, researching decisions in the courts on taxes is enough to give anyone a headache, as the courts themselves wonder all over the ballpark in attempting to explain tax laws. Sometimes federal income taxes are referred to as excise taxes, sometimes as a tariff. For purposes of this book, I am not going to get drawn into a debate over the various court decisions on taxes, for the tax Code itself does not require the average person to determine whether he or she is liable to the taxes imposed in Section 1 of the tax Code. The mere fact that the law is not clear enough for an ordinary person to understand his duty under it should make the law unconstitutional for want of (due process) notice.

[9] Treas. Reg. § 29.22 (b)—1 (1939) Exemptions; 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*; . . . (emphasis added) (http://bit.ly/GB6g5p page Federal Register page 14896).

Chapter 3

WHO HAS THE DUTY TO DETERMINE WHETHER OR NOT ITEMS OF INCOME ARE TAXABLE?

The answer is found in IRC § 6201 (Assessment authority) and reads, in relevant part:

> (a) Authority of the, Secretary. The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes . . . imposed by this title.

To carry out this charge in 26 CFR, Part 301 (Procedures and administration), the Secretary has published Treasury Regulation § 301. 6201-1, which, in relevant part, authorizes and requires the IRS district directors

> to make all inquiries necessary to the determination and assessment of all taxes imposed by the Internal Revenue Code of 1954 or any prior internal revenue law.

As a general rule, when Congress imposes liability to a particular tax on the people, the Secretary will promulgate an implementing regulation, such as 1.6201-1, to the effect that: For provisions with respect to the determination and assessment of individual income taxes, see §301.6201-1 of this chapter (Regulations on Procedure and Administration).[10] However, there is no 1.6201-1 reg. Do you think the Secretary just forgot to publish it? That he did not so forget will become clearly evident in a few more pages.

Moreover, the Internal Revenue Code is a compilation of hundreds of different tax laws going back to a time before the Civil War and is, at times, annoyingly ambiguous.

The answer to the question whether or not some portion, provision or section of the Code applies can generally be found in the Code of Federal Regulations which were published pursuant to section 7805, which mandates that needful regulations be published in order to untangle the problems created by the publication of all of the tax laws then in effect in a single volume in 1936 (the first edition of the Internal Revenue Code in a standalone, single volume). One can easily verify that a section, portion or provision of the Internal Revenue Code applies to the income tax by looking in 26 CFR Part one. For example if Code section xxxx has a corresponding regulation at 26 CFR Part 1.xxxx, it certainly applies to income taxes whose regulations are promulgated in 26 CFR Part 1.[11]

If, however, there is no "Part One" regulation for the particular IRC Section you are looking at, that's a pretty good indication that this Section does not apply to income taxes.

---

[10] An example of where the Secretary has done this is:

> § 1.6102-1 Computations on returns or other documents.
> For provisions with respect to the rounding off to whole-dollar amounts of money items on returns and accompanying schedules, see §301.6102–1 of this chapter (Regulations on Procedure and Administration).

[T.D. 6500, 25 FR 12137, Nov. 26, 1960]

[11] The "1" before the period indicates "Part 1" of the regulations, where "1" stands for "income taxes."

Generally, if there is no such regulation, it can be assumed that the Code section in question does not apply to income taxes, but if penalties or punishment could follow, it is wise to obtain the services of a qualified researcher and attorney to verify that this is actually the case.

Nevertheless, if you volunteer to a taxing section, no implementing regulation is required. Why? Because, the law does not require that the Secretary promulgate a regulation to govern a gift from one of the People!

Now, back to 26 U.S.C. § 6201. What does the term "determinations" mean, as used in IRC § 6201? The answer is found in subsection (a)(2)(A) of that same section where it states, "it shall be the duty of the Secretary, upon such information as he can obtain, to estimate the amount of tax which has been omitted to be paid and to make assessment therefore upon the person or persons the Secretary *determines to be liable* for such tax." (Emphasis added).

So, the "determinations" he is "authorized and required to make" under IRC § 6201(a) are the determinations as to who is liable to any tax imposed by this title, i.e., by Title 26, United States Code, or the Internal Revenue Code. Subsection (a)(2)(A) makes it clear that it is his "*duty*" to make such *determinations* of tax liability. I am unaware of any tax law or regulation which requires an individual to make such *determination* as to their liability to any tax. The authority and duty to do so is placed by Congress squarely upon the Secretary.

Now, it is important to recall that § 1.312-6 requires the Secretary, as well as an individual, in determining liability to income taxes, to consider that some items of income are not taxable by the Federal Government under the Constitution. In *Southern Pacific Co. v Lowe*, the Supreme Court stated:

> We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909 (*Doyle v. Mitchell Brothers Co., ante*, 247 U. S. 179, and *Hays v. Gauley Mountain Coal Co., ante*, 247 U. S. 189), 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" . . .

247 U.S. 330, 335 (1918). Recall, also, that Treas. Reg. § 29.22 (see footnote 8 above) specifically stated that some items of income were excluded from the calculation of "gross income." Not surprisingly, nowhere does the tax Code or the tax regulations explain or give a list of items of income which are not taxable by the Federal Government under the Constitution.

However, it is not the purpose of this Book to go into the many, many arguments, both pro and con, as to why such tax-exempt items of income exist or what might be the constitutional basis for this limitation on Congress' constitutional taxing authority. My purpose is to show how the tax Code is actually structured, why it is structured in that fashion and what the historical basis is for that structure. Again, upon this very point, a page of history is worth a volume of logic, theories and explanations.

We now know by whom one is made liable for any tax imposed by the Internal Revenue Code, but how are we to know when we have been made liable? For, if we are required to make or file a return only *after* we have been made liable, it only stands to reason that we cannot be expected to *guess* whether we have been made liable. Surely, there must be some means established whereby each person is notified that he or she has been made liable, so that he or she may

comply with their duty to make or file a tax return, as required by IRC § 6011 and 26 CFR. § 1.6011-1.[12]

[12] Note here the part 301 regulation does not prescribe standard procedures, because they vary for the type of tax, so, it just says the IRS may publish forms, instructions, etc., and refers you to the regulations for the particular type of taxes.

§ 301.6011-1 General requirement of return, statement or list.

(a) For provisions requiring returns, statements, or lists, see the regulations relating to the particular tax.

(b) The Internal Revenue Service may prescribe in forms, instructions, or other appropriate guidance the information or documentation required to be included with any return or any statement required to be made or other document required to be furnished under any provision of the internal revenue laws or regulations.

[T.D. 9040, 68 FR 4921, Jan. 31, 2003]

Chapter 4

HOW ARE WE NOTIFIED THAT WE HAVE BEEN MADE LIABLE?

IRC § 6303 (Notice and demand for tax) states, in relevant part:

> (a) General Rule: Where it is not otherwise provided by this title, the Secretary shall, as soon as practicable, and within 60 days, after the making of an assessment of a tax pursuant to section 6203, *give notice* to each person *liable* for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address. (Emphasis added)

In plain English, if you know where to look and how to follow the bouncing ball in the tax Code, it makes clear that you will know when you have been made liable and for how much by receiving the notice given to you by the Secretary at your home or business. Of course, if you paid your taxes in full when you filed, you will never receive such a notice. If you do not so pay and file, the Secretary must send you this notice within 60 days of the assessment, otherwise he cannot use the lien and levy procedures of the IRC to collect, in that case; he must take you to court.

Having stated here this assessment and notice procedure, I must tell you candidly that, in over 30 years of research, covering thousands upon thousands of tax cases, I have never found a case where the Secretary's IRS officials have made an assessment and given notice to an individual pursuant to § 6303 unless that individual's tax file, Individual Master File (IMF), contained either the individual's personally filed Form 1040 or a blank (aka "dummy") Form 1040 placed therein by some unidentified revenue agent.

In the case of a "dummy" Form 1040, the form itself will contain the individual's name, Social Security number, known in IRS parlance as a Taxpayer Identification Number (TIN), the taxable year, and the individual's address. However, it will not be signed or subscribed by the Secretary or any IRS agent. It's simply a blank Form 1040 for the taxable year in issue, except for the personal information I just mentioned.

We're going to go through the process which the IRS uses to post this "dummy" return in your file, why it is done, and what the historical basis is for that letter. Nothing is done by accident or without a very good reason when it comes to tax processes and procedures.

Before we go much farther, let's look at what a tax assessment consists of.

Chapter 5

WHAT IS A TAX ASSESSMENT?

The answer begins at IRC § 6203 (Method of assessment), which reads as follows:

> The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with the rules or regulations prescribed by the Secretary. Upon a request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment. (Emphasis added.)

The tax regulation provides more detail and insight into the assessment. Treas. Reg. § 301.6203-1 (Method of assessment) reads, in relevant part:

> The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The amount of the assessment shall, in the case of a tax shown on a return by the taxpayer, be the amount so shown, and in all other cases, the amount of the assessment shall be the amount shown on the supporting list or record. (Emphasis added.)

There's a lot to put into plain English here. First, an assessment is simply the Secretary's record of each person's tax liability. There are three parts to a record of assessment: (1) the summary record of assessment, a one-page "Assessment Certificate" signed by an assessment officer, showing a summary total of all the tax, interest, and penalty assessments by tax class made at an IRS campus on a specific day or week. The amounts assessed to a specific taxpayer are included as part of the total figures for that day or week. However, the Summary Record does not separately list the name, identifying number, or amount assessed for a particular taxpayer; (2) the Summary List of Assessments, a list whereon the identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment are recorded for each taxpayer as a line-item entry; and (3) the actual, tax records or lists, the foundational documents that establish a factual basis in support of the information entered as a line item on the list, the total of which is certified on a Summary Record of Assessments.

By signing the Assessment Certificate, the assessment officer certifies "that the taxes, penalties, and interest of the above classifications, hereby assessed, are specified in supporting records." Notice the types or "Class of Tax" listed: (1) Withheld individual income and FICA; (2) Individual income – other; (3) Corporation income and excess profits; (4) Excise; (5) Estate and gift; (6) Tax on carriers and their employees; (7) Federal unemployment tax act.

You will note that the first two parts of the assessment record are simply summaries or redactions of information and figures provided by the foundational documents, IRS Form 1040, U.S. Individual Income Tax Return, in the case of individual taxpayers.

What does the Secretary provide you when you ask for a copy of your assessment? If you tell the Secretary that you need a copy of your assessment to be used in court, normally, he will send you the information requested on Form 4340 (Record of Assessments and Payments) See sample at http://bit.ly/v5nx3b. Form 4340 has a column labeled "Type of tax." On the line listing your income-tax liability or amount will appear the notation "Form 1040" under the column labeled "Kind of Tax," meaning that the liability was determined based upon Form 1040, U.S. Individual Income Tax Return.

Recall that Treas. Reg. 26 CFR § 301.6203-1 stated that "The amount of the assessment shall, in the case of a tax shown on a return by the taxpayer, be the amount so shown." IRC § 6201(a)(l) (Taxes shown on return) provides:

> The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

Recall, also, that you are not required to make or file a Form 1040 tax return until after you have been made liable, i.e., until the Secretary has made you liable, § 6011, recorded your liability to a tax in his records of assessment, § 6203, and sent you notice and demand for payment, § 6303. In plain English, if you haven't filed a Form 1040 tax return, the Secretary has no foundational record from which to make an assessment. On the other hand, if you have filed a Form 1040 tax return, then the Secretary has all he requires to make an assessment. As the regulation states it, "The amount of the assessment shall, in the case of a tax shown on a return by the taxpayer, be the amount so shown." § 301.6203-1. You, my dear reader, have "determined" that you are liable to the tax shown on Form 1040. The Secretary is no longer required to make any determination that you are liable to the section 1 tax, the tax shown on the Form 1040. You've done it all for him. You have volunteered to the liability of the Form 1040 kind of tax, the graduated income tax imposed on an individual's "taxable income." You, alone, without the aid of the Secretary, have made the "determination" that you are liable to the federal income taxes imposed at section 1 of the IRC. Nifty, wouldn't you agree?

Occasionally, a person may not compute the tax correctly or fail to report his or her income in full. To correct this mistake, the IRS will send you a Notice of Deficiency Statement, Form 4089-A. Once again, you will see the phrase "Kind of Tax" displayed prominently. What is interesting is that, if the kind of tax is the individual income tax, it is identified on this form as Form 1040, not by reference to an Internal Revenue Code section. However, on the line(s) where penalties are shown, you will find that the form identifies the IRC section number that authorizes the imposition of such penalty. This begs the question: why is it that the IRS will identify the individual section of the tax Code that authorizes the imposition of a penalty but will not identify the section that imposes the income tax itself?

To understand this different treatment, you will want to be familiar with another very telling tax regulation, namely, Treas. Reg. § 601.106(f)(1) (Conference and practice requirements, Rule 1), Rule 1, which reads, in part:

> An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the U.S. Constitution.

We are familiar with statutory law. It means the laws enacted by Congress and signed by the President or, in cases of a veto, a law that Congress has enacted by the approval of two-thirds of both houses of Congress despite the President's veto.[13] In the case of penalties, the statutory law authorizing the imposition of each penalty is clearly identified on Form 4340.

What, then, does the Secretary mean, in plain English, when he states that an exaction, another word for a tax, may be based upon either a law that is "statutory" or one that is based upon law that is "otherwise"? Do you sense another bit of "sly poison," here? You should, and that will lead us into an area of tax law and history that is almost totally unknown to most Americans, including judges, attorneys, tax accountants, and most IRS employees.

---

[13] U.S. Const., Art. 1, § 7, Clause 2.

Chapter 6

IS THE SECRETARY REQUIRED TO FILE A RETURN IF ONE HAS NOT BEEN FILED?

The tax Code requires the Secretary to file returns when one has not been filed.

> § 6020. RETURNS PREPARED FOR OR EXECUTED BY SECRETARY
> **(b) Execution of return by Secretary**
> **(1) Authority of Secretary to execute return**
> If any person fails to make any return required by any internal revenue law or regulation made thereunder 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.
> **(2) Status of returns**
> Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

Nevertheless, despite the clear mandate at § 6020(b), I have never seen or even heard of a case wherein the Secretary has actually executed and subscribed (signed) a return for an individual when he or she had failed to file a return which the IRS claimed they had not received.

Instead, the Secretary mails a letter to the individual, informing him or her that the IRS has not received their tax return for a certain year. See sample letter at the IRS website:

http://j.mp/tGRamY retrieved on October 26, 2011.

Many people who receive this notice simply toss it in the wastebasket and forget about it. The IRS is aware that this is what happens to these letters. However, there is a very important reason behind their mailing of this letter to individuals whom the IRS considers to be delinquent taxpayers.

However, to understand the reasons why, in the case of income taxes, a) the Secretary never executes and subscribes a Form 1040 for an individual and b) why, instead, the IRS sends out this "we haven't received your tax return" letter to you, it is necessary to delve considerably deeper into the history of the tax processes and procedures used by the government today.

Chapter 7

DUE PROCESS STANDARDS FOR IRS PROCEDURES

In 1977, the Supreme Court decided a case from my home State of Utah: *G. M. Leasing Corp. v. United States*, 429 U.S. 338 (1977). IRS agents had seized a vehicle belonging to G. M. Leasing, while the vehicle was on private property, without a search warrant, and the lower courts had held that this action had violated the Fourth Amendment rights of the defendant. Nevertheless, at the Supreme Court, the government argued that the IRS agents should be immune from a civil lawsuit by the leasing company, because they had in good faith followed IRS "standard Service procedures" which were based on the 1856 holding of the Supreme Court in *Murray's Lessee v Hoboken Land & Improvement Co.*, 59 U.S. 272 (1856).

To understand why the government had argued that the IRS agents should not be held liable because they had acted in good faith by following the "standard Service procedures" which were based upon a Supreme Court decision over 110 years previously, we must examine the *Murray* case in some detail. Here is the background of the *Murray* Decision:

> **Facts of the Case**
>
> Samuel Swartwout complained that the government's seizure of some property he had purchased violated the Due Process Clause of the Fifth Amendment because the government had not first obtained approval of the courts.
>
> **Question**
>
> Is it a violation of due process for the government to seize property without first obtaining a court order?
>
> **Answer**
>
> No. Justice Benjamin R. Curtis, writing for a unanimous court, held that due process in revenue matters meant that the government must employ processes and procedures that were no different in principle from those revenue processes and procedures employed by the King's officials to collect debts owed to the Crown in 1791, the year in which the Fifth Amendment was ratified, provided that such processes and procedures did not violate any other provision of the Constitution and had been accepted by at least some of the colonies in their revenue processes.

Here is the crux of the decision for our purposes:

> That the warrant now in question is legal process is not denied. It was issued in conformity with an act of Congress. But is it "due process of law?" The Constitution contains no description of those processes which it was intended to allow or forbid. It does not even declare what principles are to be applied to ascertain whether it be due process. It is manifest that it was not left to the legislative power to enact any process which might be devised. The article is a restraint on the legislative, as well as on the executive and judicial, powers of the government, and cannot be so construed as to leave Congress free to make any process "due process of law," by its mere will. To what principles, then, are we to

> resort to ascertain whether this process, enacted by Congress, is due process? To this the answer must be twofold. We must examine the Constitution itself to see whether this process be in conflict with any of its provisions. If not found to be so, we must look to those settled usages and modes of proceeding existing in the common and statute law of England, before the emigration of our ancestors, and which are shown not to have been unsuited to their civil and political condition by having been acted on by them after the settlement of this country.

Murray's Lessee, 5 U.S. at 276-277.

While Justice Curtis uses the word "twofold" to set forth the standards for "due process" in summary or administrative revenue matters, I have broken the standards down into four parts:

1. The process used by the government must not be contrary to any provision of the Constitution;
2. The process must have existed under the common and statute law of England prior to the emigration of our ancestors;
3. It must not be contrary to our Revolutionary principles; and
4. It must have been acted upon or been in use by some of the original Colonies.

Justice Curtis takes considerable pains to demonstrate that the warrant of distress used against Swartwout met all four of these standards.

Therefore, when the government, some 110 years later, argued that the IRS agents should not be held civilly liable for an unlawful seizure of G.M. Leasing's vehicle, they were informing the Supreme Court that these agents had followed, in good faith, the IRS procedures that conformed in all four ways to the standards set out by Justice Curtis for the Court in the *Murray* Decision. In plain English, Justice Curtis said this: If the government wants to use non-judicial, summary, or administrative processes to collect its revenues, in order to comply with the guarantee of due process in the Fifth Amendment to the Constitution, it must use processes that

> do not differ in principle from those employed in England from remote antiquity – and in many of the States, so far as we know without objection – for this purpose, at the time the Constitution was formed.

Id. at 281-282. The Constitution was formed (ratified) in 1789; the Fifth Amendment was ratified in 1791 as part of the Bill of Rights.

So, the processes used by the IRS today are, according to the government's very argument in the *G.M. Leasing* case, meet all four tests set forth in *Murray*.

If this is the case, then it is crucial, as Justice Curtis pointed out in the *Murray* case, that we become familiar with the processes used under the common and statute law of England by the King to collect his revenues at the time our Constitution was formed. To accomplish this, Justice Curtis listed several English treatises which the Supreme Court recognized as authorities on the King's revenue processes, the four principal ones which are: Joseph Chitty, Jr., *A Treatise on The Law of the Prerogatives of the Crown and the Relative Rights and Duties of the Subject* (1820); George Price, *A Treatise on the Law of the Exchequer : Stating and Explaining the Course and Practice of the Court : as Founded on Precedent and the Principles of the Jurisdiction Conferred by the King's Prerogative, as a Court of Crown Revenue, of Common Law Civil Pleas, and of Equity* (1830); Jeffrey Gilbert, *Treatise on the Court of Exchequer* (1758); Edward West, *A Treatise of the Law and Practice of Extents in Chief and in Aid* (1817).

Long book titles in those days! I have read and studied all four of these treatises extensively in order to understand what Exchequer processes do not differ in principle from today's IRS processes. In plain English, I wanted to see for myself which of today's processes mirror those used by the King's revenue officials in 1789-1791.

While I have many disagreements with the government's interpretation of tax laws, I am in full agreement with it when it claims, as it did in *G.M. Leasing*, that the IRS revenue procedures are based upon the standards set forth in *Murray's Lessee*. I believe that you will agree, once you have read what I am about to reveal to you.

There is much confusion and disagreement abroad in this Nation as to the nature of income taxes and the procedures employed by the IRS in its summary ascertainment, computation, assessment and collection of the revenue. This confusion arises not only among laypersons, but is also rife in the courts. I believe that the simple explanation for this is that the nature of income taxes and the procedures employed by the IRS are not to be found in the laws of this Country, but, rather, in the processes and procedures used in English revenue processes, some dating back to Magna Charta (1215), the Statute of Merchants (1285), and the Statute of the Staple (1353).

The Drafters of the IRC know these processes and procedures. Of that, I am certain! Why? Because, as you will see, the processes and procedures employed by the IRS today mirror these very processes and procedures almost word for word, although the names of the procedures have been altered so as not to give away their true nature and origin.

The *Murray* Court makes abundantly clear that "Congress" is not "free to make any process 'due process of law,' by its mere will." The IRS, therefore, acting as the instrument of Congress, must employ processes that meet the four standards set forth in *Murray*. If the Drafters of the IRC understand these processes and procedures, but we, the People, do not, how long do you think it would be before they would take advantage of our collective ignorance to foist upon us, through the tyranny and treachery of words, processes that fail to meet the *Murray* due process standards as a means of increasing the government's revenue stream?

What I hope to be able to do herein is to bring you up to speed on the ancient processes used by the King in 1789-1794 to collect his revenues. Despite Justice Curtis' admonition that "It is difficult, at this day, to trace with precision all the proceedings had for these purposes in the earliest ages of the common law," *Murray*, 59 U.S. at 277, my intention is to make this as easy to understand as is possible for a subject matter so far removed from daily life.

If any of the words or terms I use herein are unfamiliar to you, I strongly urge you to look them up in Bouvier's 1856 law dictionary at http://www.constitution.org/bouv/bouvier.htm For, research has shown that if words are misunderstood, the subject matter is not fully comprehended, and on a topic this important, you don't want to have any misunderstoods. What was the Old Testament saying? "My People perish for lack of knowledge!" *Hosea* 4:6.

It isn't just the federal government that practices deception against the people; it has ever been the case with governments: give them a little power and they soon want more power and, of course, more money, because they can't seem to do anything right. "If you put the federal government in charge of the Sahara Desert, in 5 years there'd be a shortage of sand." Milton Friedman (1912-2006). Maybe more to the point concerning money and taxes, he also stated, "Only government can take perfectly good paper, cover it with perfectly good ink and make the combination worthless."

Before I go into an explanation of the *Murray* Decision and how it is reflected in today's tax Code and with reference to these four treatises on English revenue laws and procedures, I want

to take a moment or two to give appropriate recognition to the four Englishmen who authored these great works. For, their records of what comprised the King's revenue processes at the time of our Revolution are essential to free ourselves from the absolute tyranny and deception practiced on an entire Nation by those who use force and arms for what can only be called the greatest monetary heist ever perpetrated in the history of this Planet.

Joseph Chitty (12 March 1775 – 17 February 1841) was an English lawyer and legal writer, author of some of the earliest practitioners' texts and founder of an important dynasty of lawyers. . . . He initially practised as a special pleader before being called to the bar by the Middle Temple in 1816. He never became a KC but built a huge junior practice at 1 Pump Court and published many books.

- — (1808) *Precedents of Pleading*
- — (1811a) *Treatise on the Law of Apprentices*
- — (1811b) *Treatise on the Game Laws*
- — (1812) *Treatise on the Law of Nations*
- — (1818) *Treatise on Commercial Law*
- — (1820) *Treatise on the Law of the Legal Prerogatives of the Crown*
- — (1829–37) *Statutes of Practical Utility*
- — (1833) *The Practice of the Law in All its Principal Departments*

http://en.wikipedia.org/wiki/Joseph_Chitty retrieved on October 30, 2011.

A recent book describes Chitty's treatise on the King's Prerogatives in this manner:

> Joseph Chitty, whose work remains the most comprehensive account of the prerogative, explains the need for prerogative power in the following manner:
>
> > The rights of prerogative, or supreme power, are of a legislative and executive nature, and must, under any form of government, be vested exclusively in a body or bodies, distinct from the people at large. [1820, p. 2]
>
> In Chitty's analysis, the power of the king is but part of a reciprocal relationship between monarch and subject. To the king is owed a duty of allegiance on the part of all subjects; to the subjects is owed the duty of protection.

Hilaire Barnett, *Constitutional & Administrative Law* 108-109 (8th ed. 2011)
http://j.mp/uhzXWC retrieved on October 30, 2011

George Price was a barrister and wrote a number of volumes of decisions handed down by the Court of the Exchequer. His book is excellent! He spent the better part of his life in the Exchequer. His treatise was the last written by these four great authors, and it is by far the most comprehensive explanation of the Exchequer, its organization, function and procedures. He explains that, prior to the English civil war and the reign of Oliver Cromwell, only those with long and distinguished service in the Exchequer could be appointed to be a Baron in the Exchequer. However, after Cromwell's time, any licensed attorney could be appointed to that position. Appointments to the bench of the Exchequer became political plumbs, and those appointed had little, if any, experience in the Exchequer or knowledge of the revenue laws. He explains that, because of this and the fact that there was no treatise or combination of treatises that adequately explained the revenue laws of England as practiced and administer in the Court of Exchequer to enable a lawyer or Baron of that court to adequately apprize themselves of such matters, neither the rights of the King nor rights and defenses of the people were being properly

or adequately presented or adjudicated in that august court. Therefore, he had undertaken the task to prepare such a treatise. In addition to his years of work in the Exchequer, he had spent several years searching through its decisions to enable him to thoroughly explain the law and procedures as practiced in the Exchequer from its earliest date until his time. He anticipated completing a two-volume work. The first volume was published in 1830. The second volume, whether ever written or not, was never published. The reason may well be because in 1834 the Act of Parliament reorganizing the British court system abolished the Court of Exchequer and transferred revenue cases to the Court of Admiralty. Nevertheless, the first volume is by far the most detailed and definitive work available on the law of the Exchequer.

Jeffrey Gilbert (1674–1726) was an English judge and author who was Lord Chief Baron of the Exchequer in both Ireland and England and later became renowned for his legal treatises, none of which were published in his lifetime. . . . Elrington Ball called Gilbert probably the most eminent author who ever sat on the Irish Bench.

List of treatises

- *Law of distresses and replevins* 1730
- *Law of Uses and Trusts* 1733
- *Law and Practice of Ejectments* 1734
- *Reports of cases in Equity and the Exchequer* 1734
- *The History and Practice of Civil Law Actions particularly in the Court of Common Pleas*
- *Treatise on Equity* 1741
- *Law of Evidence* 1754
- *Treatise on Tenures* 1757
- *History and Practice of the Court of Chancery* 1758
- *Treatise on the Court of Exchequer* 1758
- *Treatise on Rents* 1758
- *Reports of cases in law and equity, including a Treatise on Debt and a Treatise on the Constitution* 1760
- *Law of Executions* 1763
- *Law of devises, last wills and revocations* 1792

http://en.wikipedia.org/wiki/Jeffrey_Gilbert_(judge) retrieved on October 30 2011.

The life of Sir Edward West is set forth in considerable detail at the following website, so that I do not have to recite it. He was sent to Bombay and there became the first Chief Justice of the Supreme Court established by the English in 1824. He died four years later in 1828.

http://j.mp/uhOYrr retrieved on October 30, 2011.

All four of these Englishmen are owed a debt of gratitude for laying out with such clarity the processes, practices and procedures of the King's revenue officials in the Court of Exchequer. Little did they realize that their works would, one day, be a valuable part of the process designed to free this Nation from the tyranny of the IRS and those who enable it to enforce upon a free People the condition of involuntary servitude to which they are now consigned.

Chapter 8

TO COMPLY WITH DUE PROCESS, FORM 1040 MUST MIRROR EITHER A *STATUTE STAPLE* OR THE FINDING OF A COMMISSION

Before proceeding farther, I want to make certain that you are familiar with three very important terms: recognizance, statute merchant and statute staple. These three terms originated to describe transactions between merchants. Within the text, below I have used these terms that were once in common use but have now fallen into disuse.

One of the things that the Colonists rebelled against in the 1770s was the mercantilism of England, the grant and enforcement of monopolies on trade, especially woolens. This monopoly was achieved by the establishment of monopoly trading communities known as staples by means of various statutes. The so-called "Statute of the Staple" was an important part of this scheme, and the agreement to be bound by its terms, and thus enjoy the benefit of the monopoly, was called a *statute staple.* Through time, its meaning became broader and included other agreements of similar form.

Here are the definitions of these three terms from Bouvier's Law Dictionary (1856) available online at http://www.constitution.org/bouv/bouvier.htm

RECOGNIZANCE, contracts. An obligation of record entered into before a court or officer duly authorized for that purpose, with a condition to do some act required by law, which is therein specified. 2 Bl. Com. 341; Bro. Ab. h. t.; Dick. Just. h. t.; 1 Chit. Cr. Law, 90.
2. Recognizances relate either to criminal or civil matters. 1. Recognizances in criminal cases are either that the party shall appear before the proper court to answer to such charges as are or shall be made against him, that he shall keep the peace or be of good behaviour. Witnesses are also required to be bound in a recognizance to testify.
3. In civil cases, recognizances are entered into by bail, conditioned that they will pay the debt, interest and costs recovered by the plaintiff under certain contingencies. There are also cases where recognizances are entered into under the authority and requirements of statutes.
4. As to the form. The party need not sign it; the court, judge or magistrate having authority to take the same, makes a short memorandum on the record, which is sufficient. (Citations omitted.)

STATUTE MERCHANT, English law. A security entered before the mayor of London, or some chief warden of a city, in pursuance of 13 Ed. 1. stat. 3, c. 1, whereby the lands of the debtor are conveyed to the creditor, till out of the rents and profits of them, his debt may be satisfied. Cruise, Dig. t. 14, s. 7; 2 Bl. Com. 160.

STATUTES STAPLE, English law. The statute of the staple, 27 Ed. III. stat. 2, confined the sale of all commodities to be exported to certain towns in England, called estaple or staple, where foreigners might resort. It authorized **a security for money, commonly called statute staple**, to be taken by traders for the benefit of commerce; the mayor of the place is entitled to take a recognizance of a debt, in proper form, which has the effect to convey the lands of the debtor to the creditor, till out of the rents and profits of them he may be satisfied. 2 Bl. Com. 160; Cruise, Dig. tit. 14, s. 10; 2 Rolle's Ab. 446; Bac. Ab. Execution, B. 1 4 Inst. 238. (Bold emphasis added.)

Let me give you a little background on the debt-collecting system at the time of King Edward I, aka Longshanks, the King in the movie Braveheart, starring Mel Gibson.

Foreign merchants were reluctant to do business in England because the common law allowed deadbeat debtors to wage their law against their creditors by lining up a few friends as compugators (somewhat similar to character witnesses) who would then testify under oath that the debt was not owed,[14] in effect, defeating the creditor's legitimate claim to the debt.

Furthermore, the common law provided "no process whereby a man could pledge his body or liberty for payment of a debt."[15] As a result, creditors could only go after the debtors' property. However, before King Edward I, the debtor's land was considered owned by the debtor's feudal lord and could not, therefore, be reached by the creditor. This meant that the creditor could only pursue the debtor's personal goods or chattels, including his crops, for payment of the debt. Even this remedy was often frustrated by a reluctant sheriff faced with going after a good neighbor's chattels in favor of an unknown foreign merchant.

This all changed with the enactment by Parliament of the Statute of Acton-Burnel, 11 Edw. I (1283) (aka Statute de Mercatoribus) (http://bit.ly/uLna0C at 78), and the Statute of Merchants, 13 Edw. I, stat. 3 (1285) (http://bit.ly/v4bnY3 at 118). Under these statutes, foreign and local merchants had three new processes available for their protection:

1. Mayors were granted authority to enroll recognizances (contracts under seals, bonds) under the King's royal seal, thereby eliminating the need for court action to collect delinquent debts;
2. Imprisonment of delinquent debtors; and
3. The creditors were given the right to seize the debtor's land upon default.

You can easily see how these changes gave the creditor "more chance of getting his money."[16]

The enactment of the Statute of the Staple, 27 Edw. III (1353), was merely a modification of these previous two statutes, and the contract then agreed to and taken under seal by the mayor became known as a "statute staple."

This kind of "contract under seal" is so far removed from present-day use and language that we tend to think of a "statute staple" as something enacted by the state legislature or by Congress. Nothing could be farther from the truth. It is, of course, very convenient for the drafters of the IRC to know that neither the public nor the legal profession, including judges sitting on the bench, have the slightest idea that statutes staple are in use by the IRS, but this is not something very new. Here's what Chitty said in a similar manner back in 1820:

> Statutes merchant, statutes staple, and recognizances in the nature of statute staple, are now out of use. But the powers and energies of those instruments are still in force in favour of the Crown. And since the statute of Hen. 8. the writ of *extendi facias* or extent, by which the sheriff is authorized in one writ to take person, goods, lands and debts, has been the constant execution at the suit of the Crown, against its own immediate debtor.

Chitty, *supra*, at 263 -64 http://j.mp/uTC4lf (scroll down to p. 263). The writ of extent was the writ by which the Crown gathered in its debts and is no different in principle from today's levy used by the IRS for the same purpose.

---

[14] Theodore F.T. Plucknett, *A Concise History of the Common Law* 115-116 (5th ed. 1956) (hereinafter Plucknett, *Concise History*).
[15] II Frederick Pollock & Frederick William Maitland, *A History of English Law before the Time of Edward I* 596 (1895).
[16] See Theodore F.T. Plucknett, *Legislation of Edward I* n. 9 at 142 (1947).

One last thought I want to place into your mind about contracts is this.

> The most general division of contracts is into contracts by specialty, and simple contracts.
>
> Contracts by specialty are those which are reduced to writing and attested by a seal — or, to use the common phrase, contracts under seal; and contracts of record. These last are judgments, recognizances, and statutes staple. But the term "contracts by specialty" is sometimes confined to contracts under seal.
>
> Simple contracts are all those which are not contracts by specialty.

Theophilus Parsons, *The Law of Contracts* 7 (1857), http://bit.ly/tu5jes (12/30/2011).

Now, let us return to *Murray's Lessee*. Justice Curtis, writing for the Court, noted that

> To authorize a writ of extent, however, the debt must be matter of record in the King's Exchequer.

Murray, 59 U.S. at 277.

A writ of extent was a writ of execution issued out of the Court of Exchequer and was designed, in the case of the king's revenue processes, to obtain the payment of the debt owed to the king. However, such a writ would not be issued unless the Crown had first obtained a debt *of record* within the Exchequer.

> It would be contrary to the first principles of law and justice, to issue process of execution before it is ascertained what debt is due to the Crown, and such debt become a debt on record. It may, therefore, be laid down, as a general rule, that till the debt, not being *per se* of record, be ascertained, and become a record by a commission and proceeding thereon, the Crown is not entitled to process of execution, unless in cases of danger, or insolvency, when an immediate extent may be issued, subject to the rules which will be mentioned. The Crown has no election on this subject. It is bound strictly by this principle.

Chitty, *supra*, at 265. Chitty and the other authorities explain that there were two, and only two, kinds of records that the Crown could use to obtain debts of record. One was by a "commission," as noted in the above quotation. He goes on to explain that the Statute 33 Hen. 8, c. 39, § 50, made all *specialty* debts due to the king "to be of the same *nature, kind, quality, force and effect*, to all intents and purposes, *as the writings obligatory*[17] taken and acknowledged according to the *statute* of the *staple* at Westminster . . ." *Id*. at 265-266 (emphases in *Chitty*); *Murray*, 59 U.S. at 277 (same).

At this point, it may be well to distinguish between the two types of administrative processes the Crown used in order to reduce an alleged debt to record in the Exchequer.

First, there was a record obtained by a commission of the king's officials. Chitty gives a very thorough description of this process on pages 266-269 of his treatise, available on the Internet at: http://j.mp/uTC4lf (Put the page # in the "contents" box and hit enter.)

---

[17] WRITING OBLIGATORY: A bond; an agreement reduced to writing, by which the party becomes bound to perform something, or suffer it to be done. http://j.mp/vGmnjb [Fn. added.]

Without a wearisome repetition of the details cited by Chitty, suffice it to say, for our purposes, that the commission was similar to what we today refer to as an administrative hearing, jurisdiction having been obtained from the Barons (judges) of the Exchequer, the hearings were public, witnesses gave testimony under oath, the findings were returned to the Exchequer under seal, the Barons "tested" it to note its regularity and compliance with the procedures used by the Exchequer for a commission, and it was then sent to the office of the Pipe in the basement of the Exchequer for recording on the judgment rolls.

The commission process is mirrored in today's Tax Court proceedings, with this exception. The Crown's commission constituted the actual debt of record. That is not true with Tax Court proceedings. In order to invoke the jurisdiction of the Tax Court, there must be a Form 1040 tax return in the individual's tax files or IMF. The record, in case of a Tax Court proceeding consists of both the Form 1040, actually or constructively[18] signed under seal by the individual, and the finding of the amount by the Tax Court under its seal. The Form 1040 record must appear in the individual's IRS tax files as a jurisdictional prerequisite *before* the Tax Court may obtain jurisdiction to review the computation of the numbers which comprise the taxes, penalties, and interest. More about this later.

In the case of the Crown's commission, the record and the amount were signed and sealed in public proceedings by the commissioners. The debtor's signature or seal did not appear on the record of the Crown's commission. The commission's findings and testimony thereto, under oath and seal, constituted the entire record. This was not the case with debts of record founded under the Statute of the Staple.

Because *statute staple* contracts, bonds or deeds play such a crucial role in today's IRS procedures, it is important that you view, firsthand, the actual relevant parts of this statute enacted by Parliament in 1353. The Latin version is available on the Internet at: http://j.mp/stC0WO (go to page 275).

Here are the important parts in English:

THE STATUTE OF THE STAPLE
27 EDW. III, Stat. 2 (1353)

Chapter VIII
The jurisdiction of the mayor and constables of the staple. ***All people of the staple shall be ruled by the law-merchant, and not by the common law.***

Item, we have ordained and established, That the mayors and constables of the staple shall have jurisdiction and cognizance within the towns where the staples shall be, of people, and of all manner of things touching the staple. (2) And that all merchants coming to the staple, their servants and meiny [group or suite of attendants] in the staple, **shall be ruled by the law-merchant,[19] of all things touching the staple, and not by the common law of the land**, nor by usages of cities, boroughs, or other towns; (3) And that shall not implead and nor be impleaded before the justices of the said places in plea of *debt, covenant* and *trespass*, touching the staple, but shall implead all persons of whom they will

[18] I will address the constructive signature of the individual below.
[19] "The system of rules and customs and usages generally recognized and adopted by traders as the law for the regulation of their commercial transactions and the resolution of their controversies." Source: http://j.mp/vS5ttt retrieved on October 19, 2011.

complain, as well as such as be not of the staple, as those that be of the staple, which shall be there found. (4) And in the same manner they shall be impleaded only before the mayor and justices of the staple, which shall be thereto deputed of all manner of pleas and of actions, whereof the cognizance pertaineth to the ministers of the staple. (5) So always that all manner of **contracts and covenants made betwixt merchant and merchant, or other, whereof the one party is a merchant or minister of the staple**, whether the contract or covenant made, be within the staple or without, and also of trespasses done within the staple to merchants, or to ministers of the staple by other, of by any of them to other; the party plaintiff shall chuse whether he will sue his action or quarrel before the justices of the staple by the law of the staple, or other place of the common law: and he shall thereto be received: (6) so always that in the places touching any of our house, the steward or his lieutenant, and the marshals of our house shall be with the mayor of the staple, to see that right be done to the parties as before is said, if they will be there. (7) But pleas of and of freehold shall be at the common law. (8) And if merchants and their people being in the staple, because of the same do commit felony or be slain, robbed or maimed by any persons, the mayor of the staple and other meet persons shall be assigned justices, to hear and determine the said felonies and maims with the staple without delay, according to the common law. (9) And if any such felon or trespasser be taken or detained within any franchise to whosoever the same be, because of such felony or maim done within the staple, it shall be presently commanded by writ, to cause the said felon, or him that did the maim, to come before the said justices, to right of him in form aforesaid. (10) And if they that have such prisoners in ward, will not deliver them, they shall incur the pain of an c.1. to us. And nevertheless, they shall deliver the body in the form aforesaid. (11) And in case that any indictment be made out of the staple, of felonies or trespasses done by people of the staple, or by other to them within the staple, the same indictment shall be sent before the said mayor, and them which shall be assigned justices with him, to right in this party. (12) And if the plea or debate be made before the mayor of the staple, betwixt the merchants of the ministers of the same, and thereupon to try thereof the truth, and inquest or proof is to be taken: we will that if the one party and the other be a stranger, it shall be tried by strangers: (13) and if the one party and the other be denizens, it shall be tried by denizens: (14) and if the one party be denizen, and the other an alien, the one half of the inquest or of the proof shall be denizens, and the other half of aliens.

Chapter IX

The effect of a recognizance knowledged in the Staple for recovery of a debt.

Item, to the intent that the contracts made within the same staple shall be the better holden, and the payments readily made; (2) we have ordained and established, That every mayor of the said staples shall have power to take **recognizances of debts**, which a man shall make before him, in the presence of the constables of the staple, or one of them. (3) And that in every of the said staples be a seal ordained, remaining in the custody of the mayor of the staple, under the seals of the constables, (4) and that **all obligations which shall be made upon such recognizance, be sealed with the said seal**, paying for every obligation of an c. 1. and within, of every li an ob. and of every obligation above a c. li q. (5)And that the mayor of the staple by virtue of the same letters so sealed, **may take and hold in prison the bodies of the debtors** after the term incurred, if they be found within the staple, till they have made gree to the creditor of the debt and damages. (6) And also **arrest the goods of the said debtors** found within the

> said staple, and deliver the said goods to the said creditors, by true estimation, or to sell them at the best that a man may, and deliver the money to the creditors until the sum due. (7) And in the case that the debtors be not found within the staple, nor their goods to the value of the debt, the same shall be certified in the chancery under the said seal, (8) by which certification a writ shall be sent to take the bodies of the said debtors, without letting them to mainprize, and to seise their lands and tenements, goods and chattels. (9) And the writ shall be returned in the chancery, with the certificate of the value of the said lands and tenements, goods and chattels. (10) And thereupon **due execution shall be made** from day to day, **in manner as it is contained in the statute merchant**, so that he to whom the debt is due, shall have estate of freehold in the lands and tenements, which shall be delivered to him by virtue of the same process, and recovery by writ of *Novel disseisin*, in case if he be outed. (11) And that the debtor have no advantage of the quarter of a year which is contained in the said statute-merchant. (12) And in case that no creditor will have letters of the said seal, but will stand to the faith of the debtor, if after the term incurred, he demand the debt, the debtor shall be delivered upon that faith.

I have added the bold emphases.

The *Murray* Court made clear that, to authorize the king's officials to issue a writ of extent in execution of the debt, the record in the Exchequer must be founded upon either a *statute staple*, for *specialty* debts due to the king, or upon a record returned by a commission. *Murray*, 59 U.S. at 277-278. The four treatises mentioned above are even clearer that these were the only two records used to authorize the issuance of a writ of extent to collect the king's debts.

Thus, the question arises: If, as the government claimed before the Supreme Court, all IRS revenue procedures are based upon the standards set forth in *Murray's Lessee*, and if the *Murray* Court held that due process required all non-judicial, administrative revenue procedures to be no different in principle from those used by the king's officials in 1791, which of the king's two Exchequer records does the Form 1040, U.S. Individual Tax Return, resemble or mirror? The finding of a commission or a *statute staple* contract, bond, or deed?

No honest observer can help but note that the process used to obtain a Form 1040 record in the IRS files has absolutely no similarity to the process and finding of a commission but, rather, has all the earmarks or indicia of the process of the making of a recognizance or writing obligatory taken and acknowledged according to the statute of the staple under the Statute 27 Edward III, Stat 2, set forth in part above. Keep in mind that, if the Form 1040 does not mirror the findings of a commission but does mirror that *statute staple* recognizance process, it must necessarily "be of the same *nature, kind, quality, force and effect*, to all intents and purposes, *as the writings obligatory* taken and acknowledged according to the *statute* of the *staple* at Westminster . . ." *Chitty* at 265-266 (emphases in original).

There are several aspects of the Statute of the Staple that one should note before proceeding further into our inquiry as to the true nature of the tax procedures used by the IRS today and which, out of the government's own mouth, are based upon the standards set forth in *Murray's Lessee*.

- The Statute of the Staple recognizance process was meant to be used by and for merchants;

- The law merchant,[20] not the common law, controls;
- *Statute staple* contracts, bonds or deeds were to be administered in accord with the Statute Merchant, 13 Edw. I, Stat. 3 (1285);[21]

In plain English, what this means is this: The Statute of the Staple was governed by the Law Merchant. The Statute of Merchants was part of the Law Merchant and required that recognizances be entered into only after the "pain of the statute" had been read aloud to the debtor thereby enabling the debtor to be aware that it was a recognizance and had the deliberate intention to be bound by its terms and conditions, i.e., by the "pain of the Statute";

- Line 33 of the Statute of Merchants (p. 117) reads: "And before that any recognizance be enrolled, the pain of the Statute shall be openly read before the debtor, so that after he cannot say that any did put another penalty than that whereto he bound himself";
- In effect, the debtor entered into two agreements, recognizances or contracts: first, the actual money instrument or contract for the debt; second, the agreement or recognizance to the "pain of the statute," i.e., to the terms and conditions of the penalties set forth in the Statute of the Staple, should he default in timely repayment of the debt incurred in the first agreement.
- The recognizance made under the Statute of the Staple was enrolled as a debt of record if it was a specialty contract to the king;[22]
- This type of contract is sometimes referred to as a double contract or a contract under seal.

Section 6065 of the IRC[23] requires that all returns, and the like, be filed under penalty of perjury, the modern form of a "seal." So, it should be clear to the most casual and honest observer that the Form 1040, U.S. Individual Income Tax Return, is no different in principle from the *statute staple* that served as a debt of record for the King in 1791.

Where, then, is the "pain of the statute" which was required by the Statute of Merchants to be read to the debtor before he agreed to the *statute staple* record? The "pain of the statute" is contained in the Internal Revenue Code, all the penalties, civil and criminal, interest, and other fees set forth therein.

So, if you, knowingly and voluntarily, put your signature under the seal on the signature line of Form 1040, knowing it to be today's equivalent of the king's *statute staple* record, fully aware of the "pain of the statute" in the IRC, you have bound yourself just as if you had appeared before the mayor of the staple town in England and gone through the process used to take and enroll a *statute staple* in 1791.

---

[20] law merchant, during the Middle Ages, the body of customary rules and principles relating to merchants and mercantile transactions and adopted by traders themselves for the purpose of regulating their dealings. Initially, it was administered for the most part in special quasi-judicial courts, such as those of the guilds in Italy and, later, regularly constituted piepoudre courts in England (*see* piepoudre court). http://j.mp/sZspFG retrieved on November 3, 2011.

[21] http://j.mp/v6BBTA You will also find an excellent summary of the Statutes of Merchants (there were several of them) with English translations at: http://j.mp/uubZ61 (11/3/2011).

[22] SPECIALTY, contracts. A writing sealed and delivered, containing some agreement. 2 *Serg. & Rawle*, 503; 1 Binn. Rep. 261; Willes, 189; 1 P. Wms. 130. In a more confined meaning, it signifies a writing sealed and delivered, which is given as a security for the payment of a debt, in which such debt is particularly specified. Bac. Ab. Obligation, A. http://j.mp/vCi1Ku (11/5/2011).

[23] § 6065. VERIFICATION OF RETURNS
"Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury." See also 28 U.S.C. § 1746.

How many taxpayers have any such awareness when they sign Form 1040? I doubt there is a tax accountant or attorney who has the slightest idea of what you have already read herein, much less the average individual who files out of understandable fear of the civil and criminal penalties he or she faces if they fail to file and pay the taxes expected by the IRS.

You must be aware that you will not get a fair shake from the IRS, much less the courts, if you point these things out to them. They are all about the money; they could care less about the law or your rights. That is why I have continually advised you throughout this book to continue to file and pay as per usual. The remedy for our rights lies, not in the courts or in the IRS; it lies in educating enough people that even those lawmakers, judges, attorneys, accountants, and individuals who are charged with enforcing this unjust system will be made aware of the true nature of the tax system and its Form 1040 *statute staple* contract, bond or deed and will be made to account to the masses of Americans who now know that what they are enforcing is simply a massive government lie.

There are many talk-show hosts who will publicize this knowledge, you can publicize on blogs, YouTube, Facebook, the Internet in general. Together, we can make the Truth about Income Taxes in Plain English a topic that no political candidate can ignore in the upcoming political debates in 2012. No candidate can afford to ignore the truth if he or she expects to be elected to office in November 2012. The remedy lies in the political process, not in the courts or not in allowing the IRS to indict you for willful failure to file or pay the taxes that the IRS demands at the virtual point of a gun.

It may well be that IRS agents are unaware of the information within this book. However, once they are made aware of it and continue to force people to file and pay, then they have branded themselves as absolute liars and thieves. They should be shunned from society as pariahs, outcasts to society. Any member of Congress who hereafter votes to uphold the existing tax Code should be thrown out of office. Judges who oversee criminal tax prosecutions should be excoriated on the Internet, in the newspapers, radio and television. Armed with the information you now possess, you have the modern equivalent of the swords that brought King John onto the Plains of Runnymede in 1215 and forced him to sign the Magna Charta, the Great Charter of Liberties that lies at the foundation of English law.

The power of millions of Americans, armed with the Truth about Income Taxes in Plain English, will provide a sense of power that the common folks of this Nation have never before possessed in tax matters. Add to that the means of communication on the Internet, blogging, and the like . . . well, I think you get the picture. It's almost like We, the People, can once again have a real voice in our Nation's affairs. We no longer have to stand aside and watch the lobbyists pay for their treasured loopholes, helpless to have any effect upon the great affairs of state, victims of the latest shenanigans performed inside the hallowed halls of Washington peopled by the politicos and their paymasters, the great men of the earth.

I intend to follow this book with a short book on the power of the People, acting through their juries, to take back control of the laws gone amuck in our Country. I have long believed that the People, once armed with the truth about their affairs and with a means to communicate their desires, unfiltered by big media, would have enough common sense to right the ship of state and put us back on course wherein the goals and purposes of the Constitution are realized for us once again in the 21st Century:

> **We the People** of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and

our Posterity, do ordain and establish this Constitution for the United States of America.

Chapter 9

WHAT "ENGLISH" PROCESS DOES THE IRS USE, IF ONE HAS NOT FILED A FORM 1040 *STATUTE STAPLE* CONTRACT, BOND OR DEED?

Recall that the Statute of the Staple stated very clearly that all merchants coming into the staple shall be governed by the law merchant and not by the common law. Section 1-103(b) of the Uniform Commercial Code (UCC) provides:

> (b) Unless displaced by the particular provisions of this Act [the Uniform Commercial Code], the principles of law and equity**, including the law merchant** and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, and other validating or invalidating cause supplement its provisions. (Emphasis added.)

One of the provisions of the UCC is the statute of frauds, UCC § 201(1). "The term *statute of frauds* comes from an Act of the Parliament of England (29 Chas. 2 c. 3) passed in 1677 (authored by Sir Leoline Jenkins and passed by the Cavalier Parliament), the title of which is **An Act for Prevention of Frauds and Perjuries**."[24] This provision requires that contracts of $500 or more must be in writing and signed in order to prevent hassles over oral contracts. However, there is an exception to the writing and signature requirement between merchants, sometimes referred to as the "Merchant Confirmation Rule." Here's how Wikipedia explains this provision:

> **Merchant Confirmation Rule**, under the UCC. If one merchant sends a writing sufficient to satisfy the statute of frauds to another merchant and the receiving merchant has reason to know of the contents of the sent confirmation and does not object to the confirmation within 10 days, the confirmation is good to satisfy the statute as to both parties.

http://j.mp/t2JpYx (November 21, 2011).

Here is what happens if you didn't file a Form 1040 tax return for a certain year. At some point, you will receive a letter from the IRS, designated as Notice CP59, which states:

> Message about your 2011 Form 1040
> **You didn't file a Form 1040 tax return**
>
> Our records show that you haven't filed your tax return for the tax year ending on December 31, 2011.

See sample at: http://j.mp/tGRamY

Notice what the IRS says at the bottom of the first page:

> If we don't hear from you

[24] http://j.mp/t2JpYx retrieved November 21, 2011. You can read the original statute at http://j.mp/uwDaz4 Charles II, 1677: 'An Act for prevention of Frauds and Perjuryes', Statutes of the Realm: volume 5: 1628-80 (1819), pp. 839-42.

- If you don't file a tax return, or dispute this notice if you feel you've received it in error, you may owe penalty and interest charges on the amount of tax due.
- We may determine your tax for you.

Moreover, on each page, the IRS includes this information (or the equivalent for you):

> Notice CP59
> Tax Year 2005
> Notice date March 2, 2009
> Social Security number xxx-xx-xxxx

What do most people who haven't filed do with this letter from the IRS? That's right! They throw it in the waste basket.

Let's see how this plays out under the law merchant, especially in light of the "Merchant Confirmation Rule."

- The IRS knows that the Form 1040 is no different in principle from the writings obligatory taken and enrolled at the King's Exchequer under the Statute of the Staple;
- They know that, under the Statute of the Staple, the law merchant, not the common law, controls;
- They consider that both you and the IRS are dealing as merchants one to another;
- They know that a s*tatute staple* bond or recognizance, such as the Form 1040 tax return, must be in writing and signed by the debtor;
- They know that Notice CP59 contains sufficient information within it to give you reason to know that they believe that you are required to file a Form 1040 tax return for the year in question;
- They know that the s*tatute staple* Form 1040 must be in writing and signed by you to conform to the Statute of the Staple and the law merchant;
- They know that the Merchant Confirmation Rule acts, in effect, as your signature if you fail to respond within 10 days.

Here's the Merchant Confirmation Rule, UCC § 2-201(2):

> Between merchants if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against such party unless written notice of objection to its contents is given within 10 days after it is received.

Here's how the Eighth Circuit Court of Appeals stated the issue here:

> Both parties agree the case is governed by the so-called "merchants' exception" to the statute of frauds. Under the merchants' exception, a confirmatory writing setting forth the terms of the agreement is sufficient if the recipient of the writing knows its contents and fails to object in writing within ten days. See § 4-2-201(2) (Michie 2001) (citing the Arkansas UCC).

General Trading International, Inc. v. Wal-Mart Stores, Inc., 320 F.3d 831, ¶ 8 (8th Cir. 2003).

As this Court notes, in passing, this process is sometimes referred to as a confirmatory writing.

Do you think the IRS feels that they have your signature on a Form 1040 s*tatute staple* contract, bond or deed? There's no doubt about it. Will they ever admit that the purpose of the Notice CP59 is to obtain your signature via the "merchants' exception" to the statute of frauds? I seriously doubt it.

Here, again, the IRS standard service procedure conforms precisely to the English procedures in use both in this Country and in England in 1791, with this important exception: I have never come across a case in the English authorities that I have read meticulously wherein the Court of the Exchequer referred to anything like the "merchants' exception" to the statute of frauds. Therefore, if this issue ever came before a court, the burden would be upon the IRS to prove that the use of the "merchants' exception" was in use in the English revenue procedures in 1791 and that it, therefore, meets the *Murray* Due Process Rule.

However, you and I both know that the IRS, the Department of Justice (DOJ), and the court will never allow this kind of issue to be placed upon the public record. To do so would doom the tax system!

During my nearly-35 years battling the IRS with countless motions before the courts, I have never known the IRS or the courts to have dared to address orally or in writing the issues I am writing in this book. They can't! To address them would be to reveal the dreadful secrets that undergird the present Internal Revenue Code. They're simply not prepared to reveal such secrets!

Before moving on, let me address the claim that some IRS agents have made to me and my friends. They claim that they Uniform Commercial Code (UCC) doesn't apply to their tax-collection procedures.

I rather doubt that such IRS agents are at all familiar with what I have written herein. If the tax in IRC § 1 is imposed by Congress on all income, then the drafters of the IRC would have placed within the tax Code the procedures that mirror the King's commission of inquiry or inquisition, as it was also called, to obtain the record that due process requires, under *Murray*, before the government can collect its taxes. In that case, the UCC might, indeed, be of no consequence in tax collection. However, no such procedures appear either in the tax Code itself or in the needful rules and regulations promulgated by the Secretary.

If, on the other hand, the Form 1040 is, indeed, the modern statute staple contract, bond, or deed (and it is), then the law merchant, not the common law, governs the transactions thereto. See the Statute of the Staple, 27 Edw. III, stat. 2, c. 8, line 2 ((1353) ("(2) And that all merchants coming to the staple, their servants and meiny [group or suite of attendants] in the staple, shall be ruled by the law-merchant, of all things touching the staple, and not by the common law of the land . . ."). UCC § 1-103 makes plain that, in addition to the provisions of the UCC itself, "the principles of law and equity**, including the law merchant** . . . supplement its provisions."

The IRS considers that the Form 1040 is a "contract under seal," today's version of the statute staple contracts, bonds or deeds taken and enrolled in the King's Exchequer, and because our system of laws presumes that everyone knows the law ("ignorance of the law is no excuse!"), we have always been aware of the "pain of the statute" contained in the IRC itself. Therefore, we have a double contract with the IRS – the Form 1040 statute staple contract and the recognizance, namely, our presumed awareness of the "pain of the statute" contained in the IRC and its accompanying regulations.

This, of course, is a legal fiction, but the law is full of legal fictions. How, for example, is anyone presumed to know all the laws Congress and the states have enacted since the founding of this

Nation? Nevertheless, if you go into court, you will discover that the judges presume that you know the law, a great example of a "legal fiction."

Moreover, while statutes staple in commercial law that were enforced within the staple by the mayor of the staple and outside of the staple by petition to the Chancellor, statutes staple to the King were administered and enforced by the common-law Court of Exchequer, although, as the *Murray* Court noted, its processes "varied widely from the usual course of the common law on other subjects." *Murray* 59 U.S. at 278. Thus, the preservation of the principles of law and equity, including the law merchant, are principles of the common law.

Moreover, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq*., applies to the IRS,[25] and finally, all offenses against the Revenue Laws are considered commercial crimes.[26] Does it surprise you that you are under the commercial law and, therefore, also under the law merchant? Probably not!

---

[25] IRM 5.1.10.2 (10-28-2011)
Fair Tax Collection Practices

1. IRC 6304 imposes certain restrictions with respect to IRS communications with taxpayers regarding unpaid tax. This provision specifically prohibits the IRS from harassing or abusing taxpayers.
2. This law applies to communications with all taxpayers, including business entities.
3. Violations of IRC 6304 could subject the United States to civil action (IRC 7433) by the taxpayer. Violations of IRC 6304 could also subject Service employees to termination for misconduct.

[26] *Commercial crimes.* Any of the following types of crimes (Federal or State): Offenses against the revenue laws; burglary; counterfeiting; forgery; kidnapping; larceny; robbery; illegal sale or possession of deadly weapons; prostitution (including soliciting, procuring, pandering, white slaving, keeping house of ill fame, and like offenses); extortion; swindling and confidence games; and attempting to commit, conspiring to commit, or compounding any of the foregoing crimes. Addiction to narcotic drugs and use of marihuana will be treated as if such were commercial crime. 27 CFR § 72.11 http://1.usa.gov/xzAye2

Chapter 10

WHAT ENGLISH PROCESSES ARE MIRRORED IN THE TAX PROCEDURES AFTER YOUR SIGNATURE HAS BEEN OBTAINED ON A FORM 1040 TAX RETURN VIA THE IRS CONFIRMATORY WRITING?

The Internal Revenue Manual (IRM) instructs IRS officials to issue a notice of deficiency "when no mutually satisfactory basis of settlement is reached."[27] A copy of this Notice of Deficiency, Letter 3219, may be seen here: http://j.mp/vELtT1 (retrieved December 5, 2011). Form 4549, Income Tax Examination Changes, will accompany this letter and show how the IRS arrived at the deficiency amount. Notice that the "Return Form No:" box at the top of Form 4549 contains the notation "1040A". What is it that the IRS is attempting to do at this stage of their proceedings and what English revenue processes are mirrored in the IRS procedures?

Well, if the Form 1040 is no different in principle from a *statute staple* taken and enrolled at the King's Exchequer, and if such *statute staple bonds* required the voluntary agreement of the debtor, and they did, then the IRS is attempting to obtain your agreement to the Form 1040 *statute staple bond*.

By sending you the notice of deficiency and seeking a "mutually satisfactory basis of settlement," the IRS is both informing you of the "pain of the statute" and seeking your knowing and voluntary agreement to the *statute staple* Form 1040 recognizance. This is precisely what was required by line 33 of the statute of merchants enacted in 1285 under King Edward I. Let me repeat the statute's command:

> And before that any recognizance be enrolled, the pain of the Statute shall be openly read before the debtor, so that after he cannot say that any did put another penalty than that whereto he bound himself.

If, as so often the case, the individual fails to agree or simply ignores the notice of deficiency and does not seek a hearing before the Tax Court, the IRS simply enters the stated amounts into the individual's tax files (IMF), and the government now has an administrative record of a debt owed to the government by that individual. However, as will be shown, this is an inferior type of record in the nature of a judgment. It is "inferior" in that, unlike a final judgment out of a court, it can be pled to by the debtor.

James Manning, in his work, *The Practice of the Court of Exchequer* (1827) pg 1-2, under the heading of "Debts to the Crown, how recoverable," states the following:

> DEBTS and duties recoverable by action are suits and arise either by matter of fact or by matter of record. But the crown in many cases possesses and exercises the privilege of having its debts, arising by matter of fact, reduced into matter of

---

[27] 8.17.4.2 (11-09-2007)
Information to Know Before Preparing Notices of Deficiency

1. References to an Appeals Officer (AO) within this section include both an Appeals Officer and an Appeals Team Case Leader (ATCL).
2. Notices of Deficiency are issued by Appeals in pre-90-day income, estate, gift, and Chapters 41, 42, 43, and 44 excise tax cases when no mutually satisfactory basis of settlement is reached. The TCS is responsible for the preparation of the notice except in the situation noted below (emphasis added). http://j.mp/vKLgTh (retrieved on December 4, 2011).

> record, by means of an *ex parte* inquiry, which the Courts are bound, *ex officio*, to direct. The result of such inquiry, being returned and filed, **becomes a record of the Court**, not indeed of the same authority with the judgments of the Court, *inter partes*, which, while they remain unreversed, cannot be disputed. **It forms an inferior species of record**, called in the old books an office, now denominated a ministerial record, to distinguish it from the more solemn *judicial* records, and from private records, as **recognizances**, &c., which **bind by consent**. (Bold emphases added.)

To like effect is Price's explanation of the true nature of the Great Pipe Roll:

> This Roll, being a record of the Court, all the debts written thereon are debts of record; and consequently, the Roll itself is in the nature of a Judgment Roll, and the process, for the same reason, is in the nature of an execution, with this singular exception, that **it may be pleaded** to.

Price, *supra*, at 68.

In addressing this aspect of an inquest of office or commission of inquiry, as it was also known, Chitty writes:

> Proceedings under an *inquisition* or *inquest of office*, or an *office*, as it is termed in the old books, is a peculiar prerogative remedy for the benefit of the Crown, which was formerly much in use, and is still resorted to on many occasion. . . . This inquiry is an office or presentment: an office which finds matter to entitle the king to some possession, for an office is a title for the king. This is an admirably constructed barrier between the Crown and the subject: the object evidently is to support that fundamental principle of English law, that **the King may not enter upon or seize any man's possessions upon bare surmises, without the intervention of a jury**. And the object is obtained by the **opportunity afforded the subject of interpleading with the Crown by *traversing* its title**, or setting up a better in a *monstrans de droit* or *petition of right*, which will be considered in the next chapter.

Chitty, *supra*, at 247 (citing *Magna Charta*; 9 Hen. 3, 29; 2 Coke's *Institutes* 46; Gilbert's *Exchequer* 132; 1 Blackstone's *Reports* 130; 3 Blackstone's *Commentaries* 239; other footnote omitted; bold added.)

Thus we see that the English authorities are unanimous in their statements that the King's revenue laws and procedures in place when the Fifth Amendment was ratified (1791) did not permit the King to take anything from his subjects until AFTER the debtor had been given the opportunity to enter a plea opposing or traversing the king's title to their property. Moreover, the king's office or title was to be tried to the jury.

Therefore, because my 30+ years of research has demonstrated that the government was correct in stating to the Supreme Court that "standard Service procedures" are based upon *Murray's Lessee*, somewhere between a taxpayer's default to the notice of deficiency and the seizure of his or her property, the IRS must provide for a mirror to the English process noted immediately above whereby the taxpayer can enter a plea or traverse in opposition to the government's debt of record ("record of assessment" in today's terminology) and trial of the record to the jury. I will address the very process the IRS uses to do just that but which has never, to my knowledge, been either recognized or brought to the attention of the American people by the legal profession,

the IRS, the DOJ, Congress or any tax accountant or CPA since the income tax was enacted in 1913.

Chapter 11

WHAT ENGLISH REVENUE PROCESS DOES THE FINDING OF THE TAX COURT MIRROR?

Here is a description of the Tax Court's jurisdiction from the Internal Revenue Manual:

> Jurisdiction of the Tax Court
>
> 1. U.S. Tax Court is a federal court of record established by Congress under Article I of the Constitution of the United States. Congress created the Tax Court to provide a judicial forum where affected persons can dispute tax deficiencies determined by the Commissioner of Internal Revenue Service prior to payment of the disputed amounts.
> 2. The jurisdiction of Tax Court includes the authority to hear a variety of tax disputes. The Tax Court has jurisdiction to re-determine whether deficiencies determined by the Commissioner in notices of deficiency are correct. The Tax Court has jurisdiction over other proceedings where Congress gives specific grants of jurisdiction. In all cases, the jurisdiction of the Court also depends on the timely filing of a petition by the taxpayer.
> 3. The following list describes various types of docketed cases over which the Tax Court has jurisdiction:
>
> Deficiency Proceedings The Tax Court has jurisdiction to re-determine the deficiency determined by the IRS per the provisions of IRC 6211 through IRC 6216, which relate to deficiency procedures. The jurisdiction of the Court depends on the following:
>
> In cases brought to Court by a taxpayer -
> * **upon issuance by the Commissioner of a notice of deficiency in income**, gift, or estate tax, . . . (emphasis added).

IRM 8.4.3.2 (11-02-2007) Jurisdiction of the Tax Court http://j.mp/vpbRTZ (12/9/11).

Before proceeding, it is important to understand what the lawful functions of the Internal Revenue Service are. According to the indictment the government brought against Glenn and me on April 15, 1998 (Interesting date, wouldn't you agree?), they are the "ascertainment, computation, assessment, and collection of the revenue." The word "ascertainment" is another word for "determination." The IRS must first ascertain or determine that you are liable to a tax before it can compute the amount owed, assess it and collect it.

Notice that the Tax Court possesses jurisdiction solely to determine the correctness of the deficiency computed by the IRS. Nowhere in the IRC, the Treasury Regulations or the Internal Revenue Manual is there a single mention of the Tax Court's jurisdiction to ascertain or determine your liability to the income tax. Why is this so? For the simple reason that the jurisdiction of the Tax Court is available only upon satisfaction of two jurisdictional prerequisites: a proper notice of deficiency and a petition by the taxpayer. See, e.g., *Laing v. United States*, 423 U.S. 161, 165 n. 4 (1976) ("A deficiency notice is of import primarily because it is a jurisdictional prerequisite to a taxpayer's suit in the Tax Court for redetermination of his tax liability"); *Portillo v. Comm'r of Internal Revenue*, 932 F.2d 1128, 1132 (5th Cir.1991) ("the Tax Court only has jurisdiction when the Commissioner issues a valid deficiency notice and the taxpayer files a timely petition for redetermination"); *Robinson v. United States*, 920 F.2d 1157,

1160 (3d Cir.1990) (notice of deficiency is the taxpayer's "ticket to the Tax Court" and is "a jurisdictional prerequisite to a suit in that forum" (internal quotation omitted)). Consequently, the individual must either have signed and filed a Form 1040 return or failed to file but defaulted to the IRS confirmatory writing. In either case, the government proceeds on the basis that the taxpayer himself or herself has ascertained or determined that they are liable to the income tax. There simply is no need for the IRS itself to litigate the "ascertainment" of the individual's liability to the tax.

The Tax Court process mirrors, or is no different in principle from, the process of the king's *inquisition*, *inquest of office*, or simply *office*, with one notable exception. In all the cases I have read in the books cited by the Supreme Court as authorities on the English revenue processes, the king's officials were required to produce the record upon which the debt was alleged and to do in a clear and unmistakable manner. Here's how West explains the process of an inquest:

> In order, therefore, to record a simple contract debt to the Crown, a commission issues, under which an inquisition is held, to find the debt; and the inquisition, when returned, becomes matter of record. . . . And as early as the stat. of Rutland,[28] there is an enactment that Commissioners shall be appointed to inquire of the King's debts, and to record them. And the whole proceeding directed by this enactment is precisely the same as that at the present day . . . .
>
> The **inquisition**, it is apprehended, **should state how the debt to the king is constituted,**[29] **and not merely that the party is indebted to the king**; and as it is the **foundation of the subsequent scire facias**, or immediate Extent, (**which may be demurred to if the debt do not sufficiently appear on the face of those proceedings) should be nearly as certain as a declaration**.[30]

West, *Extents*, *supra*, at 20, 25.

The word "constitute" has various definitions,[31] all of which, in West's statement, mean how and on what basis the debt was arrived at. Because there were only two processes used to reduce the kinds debts to a matter of record – an *inquisition* (commission of inquiry) and a *statute staple* – West is stating, above, that the commission's record should state how and on what basis the debt was arrived at: was it based upon a statute imposed by Parliament, was it a contract between the subject and the king, was it a payment for some privilege granted to the subject, or was it founded, or "constituted," from a *statute staple*, such as an employment contract with the king, etc.?

However, in the case of a deficiency proceeding, there is no such clearly stated explanation on the IRS deficiency documents as to put the taxpayer on notice as to how the alleged tax liability was ascertained or determined. To be sure, the computation is clearly stated, at least as to the

---

[28] Auth n (d) 10 Edw. 1 (1283)
[29] Auth n. (a) All the precedents are so. And see 33 Hen. VIII. c. 39. s. 73.
[30] Auth n. (b) See Hard. 59 as to the certainty of an inquisition on outlawry.
[31] con·sti·tute
1. to compose; form: *mortar constituted of lime and sand.*
2. to appoint to an office or function; make or create: *He was constituted treasurer.*
3. to establish (laws, an institution, etc.).
4. to give legal form to (an assembly, court, etc.).
5. to create or be tantamount to: *Imports constitute a challenge to local goods.*
http://dictionary.reference.com/browse/constitute (12/22/2011).

penalties and interest. The precise IRC sections are cited for each such penalty or interest. However, no IRC section is ever cited as to the liability for the "income" tax itself.

The deficiency proceedings do, however, contain a reference to "Form 1040." Some courts have even referred to the tax claimed by the IRS as a "Form 1040 tax." So, what is a "Form 1040 tax?" It is, as we have seen, a *statute staple* contract, bond or deed, also known as a recognizance. It is a special kind of contract, namely, a contract under seal because the penalty-of-perjury jurat[32] above the taxpayer's signature serves as the modern equivalent of a seal under the old English law.

Here's a definition of a contract under seal that shows that the form of the contract alone is sufficient to identify it as a contract:

> **Contract under Seal Law & Legal Definition**
>
> A contract under seal is also termed as sealed contract, special contract, deed, covenant, specialty, specialty contract or common-law specialty. A contract under seal is a formal contract which does not require any consideration and has the seal of the signer attached. A contract under seal must be in writing or printed on paper. It is conclusive between the parties when signed, sealed, and delivered.
>
> Delivery is made either by actually handing it to the other party or by stating an intention that the deed be operative even if it is retained in the possession of the party executing it.
>
> This is the only formal contract, because **it derives its validity from the form** in which it is expressed and not from the fact of agreement, or from the consideration.
>
> Contracts under seal also bear little resemblance to ordinary contracts. A contract under seal is a written promise or set of promises which **derives its validity from the form, and the form alone, of the executing instrument**. The only requirements are that the deed should be intended and should be signed, sealed, and delivered.

http://definitions.uslegal.com/c/contract-under-seal/ (12/16/2011) (bold emphases added.)

Consequently, when the courts and the IRS refer to "Form 1040" for a specific year, they are referencing a specific, formal contract that requires no consideration from the taxpayer, but derives its validity from the form alone of the executing contract, in this case, the form of the 1040 document itself.

We all recognize a check from the form of the check itself, isn't that true? Likewise, is there any taxpaying-American who is unable to recognize a Form 1040 tax return from the form itself? Probably not.

So, you see, the Secretary is, in fact, complying with West's observation that "[t]he inquisition, it is apprehended, should state how the debt to the king is constituted, and not merely that the party

---

[32] Jurat (jur-at) n. *Latin* for "been sworn," the portion of an affidavit in which a person has sworn that the contents of his/her written statement are true), filled in by the Notary Public with the date, name of the person swearing, sometimes the place where sworn, and the name of the person before whom the oath was made. http://legal-dictionary.thefreedictionary.com/jurat (12/16/2011).

is indebted to the king. . .” In 1791 a complaint initiating an action of common law was called a “declaration.” Can you honestly state that the deficiency documents are “nearly as certain as a declaration” in this respect? I doubt it.

At this point, you should be aware of a very important Treasury Regulation that sheds some light on the present topic, Treas. Reg. § 601.106(f)(1) (Conference and practice requirements, Rule 1), Rule 1, which reads, in part:

> An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the U.S. Constitution.

We are familiar with statutory law. It means the laws enacted by Congress and signed by the President or, in cases of a veto, a law that Congress has enacted by the approval of two-thirds of both houses of Congress despite the President’s veto.[33]

What, then, does the Secretary mean when he states, in plain English, that an exaction, another word for a tax, may be based upon either a law that is “statutory” or one that is based upon law that is “otherwise”?

Well, based upon the information you have learned herein, you would know that a tax or “exaction” based upon statutory law would be one based upon statutes enacted by Congress. Moreover, you would also know that, to meet the *Murray* due process standard, the deficiency record provided by the IRS to the taxpayer and the Tax Court would have to mirror the process used by the king in 1791 for similar purposes. As set forth by West, above, the deficiency record would have to cite the basis or foundation of the tax or exaction alleged to be due and owing by the taxpayer and “not merely that the party is indebted to the king” (IRS). It “should be nearly as certain as a declaration.”

The term “declaration,” under the common law, was what we think of today as a complaint filed to initiate a civil lawsuit against another party. Rule 8, of the Federal Rules of Civil Procedure, requires that the plaintiff’s complaint “must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief.” Nowhere within the notice of deficiency and accompanying examination changes will you find anything that resembles a short and plain statement showing that the government is entitled to the tax alleged to be due and owing. The documents merely allege that the taxpayer is indebted to the government and is, therefore, insufficient under the standards for an *inquisition*, as stated by West, above, and cannot, therefore, meet the *Murray* standard for due process if, as the government may claim, the tax was imposed by an Act of Congress. For, all such Acts of Parliament were found by an inquisition, not by a *statute staple* “recognizances, which bind by consent.” Manning, *Exchequer*, *supra*, at 2.

In addition, if the records supporting the notice of deficiency are truly based upon the findings of an *inquisition*, or its modern-day equivalent, then they will have to meet another requirement of the Exchequer process, as set forth by West. He states that the commission directed the commissioners to return its findings to the Barons of the Exchequer

> under your seals, and under the seals of those persons by whom you make the said inquisition . . . [and] any person or persons whom it may be proper to examine in the premises, upon their oaths to be taken before you, that this our command may be fully executed.

---

[33] U.S. Const., Art. 1, § 7, Clause 2.

West, supra, pages 1-3 of the Appendix of Forms. You will find that the Internal Revenue Code directs the Secretary or his delegate to file a return for a taxpayer who is required to make a return but fails to do so and that such a return is "good and sufficient for all legal purposes," but only when "subscribed" by the Secretary or his delegate.[34]

I have read numerous cases wherein the Secretary or his delegate has prepared and signed (subscribed) returns for individuals and businesses engaged in alcohol, tobacco and firearms endeavors, but have never read a case wherein the Secretary or his delegate has prepared and signed a Form 1040 "dummy" return for an individual. Why? Because, those who are "in the know" within the U.S. Treasury and the IRS are aware, I believe, that the Form 1040 must meet the requirements of due process set forth in *Murray's Lessee*, namely, that the Form 1040 must mirror either the finding of an inquisition, and they know that it does not, or it must mirror a *statute staple* recognizance, and they know that it does. They also know, I believe, that under both English and United States law, a recognizance must be entered into knowingly and voluntarily; it cannot be entered into by a third party without the consent of the individual who is to be bound by the recognizance.

At the risk of being redundant, please, permit me to summarize what I have just written in plain English and consider it when you receive your next letter from the IRS.

The taxing officials know that IRC § 6020 only requires them to file and sign under oath a return when one is required to be filed but has not been filed. They also know that a person who has no taxable income is not required to file a return. IRS policy proceeds on the premise that a person who has no taxable income may voluntarily obligate himself to the individual income tax by signing and filing a Form 1040 with the intention that it operate as a stature staple contract and the IRC operate as its recognizance. Moreover, even if the IRS has no Form 1040 actually signed and delivered to it, it may, by the operation of the law and instrumentality of a confirmatory writing, legally evince that it has such a contract with the alleged taxpayer's signature, although he or she has never actually signed one.

The IRS proceedings and records show that failure to timely object to its confirmatory writing is a condition precedent to its making an assessment on a "Dummy Return." Thus, by operation of law, they have the alleged taxpayer's signature on the "Dummy Return." Does this give new meaning to the term "Dummy Return?"

I realize that this is a lot of legalese to absorb, but the drafters of the Internal Revenue Code and the Treasury Regulations thereto did not, in my opinion, intend for these matters to be easily understood. Listen to what Senator Alben W. Barkley, Senate Majority Leader and later Vice-President of the United States under President Truman, had to say from the floor of the U.S. Senate in 1944:

> Congress is to blame for these complexities to the extent, and only to the

---

[34] § 6020. RETURNS PREPARED FOR OR EXECUTED BY SECRETARY
(b) Execution of return by Secretary
(1) Authority of Secretary to execute return
If any person fails to make any return required by any internal revenue law or regulation made thereunder 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.
(2) Status of returns
Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

> extent, to which it has accepted the advice, the recommendations, and the language of the Treasury Department, through its so-called experts who have sat in on the passage of every tax measure since I can remember.
>
> Every member of the House Ways and Means Committee and every member of the Senate Finance Committee knows that every time we have undertaken to write a new tax bill in the last 10 years we have started out with the universal desire to simplify the tax laws and the forms through which taxes are collected. We have attempted to adopt policies which would simplify them.
>
> When we have agreed upon a policy, we have submitted that policy to the Treasury Department to write the appropriate language to carry out that policy; and frequently the Treasury Department, through its experts, has brought back **language so complicated and circumambient that neither Solomon nor all the wise men of the East could understand it or interpret it**.

Congressional Record, 78th Congress, 2nd Session, Vol. 90, Part 2, February 23, 1944, pages 1964-5 (emphasis added).

Vice-President Barkley served 14 years in the U.S. House of Representatives, 20 years in the U.S. Senate and was Senate Majority Leader of the Senate from 1937-1947. Do you think he might have known a thing or two about how tax laws and regulations were really made?

You will no doubt recall that the *Murray* Court noted that debts owed to the King had to be made of record ("assessed" or "assessment" is the IRS term for a "record"), i.e., entered as judgments on the judgment roll of the Court of Exchequer, before they could legally be enforced. Statutes staple were themselves given the force of judgments that could be so recorded and enforced as bonds.

Before statutes staple existed, the commission to inquire originated to summarily, or administratively, ascertain or determine if a person was liable to the King for a debt enforceable as a simple contract (which included taxes imposed by Parliament) and, if so, the commission could then proceed to determine the amount due thereon.

In the event that a person may have defaulted on a statute staple, the facts may demonstrate that he had paid some of the debt due or none at all. Naturally, the creditor was only entitled to the balance owing on the original debt, as well as any unpaid penalties agreed to in the contract. Subsequently, as the law developed, the commission to inquire was also adopted to make these accounting determinations.

The commission to inquire issued out of the Exchequer by the Barons, the judges of the Exchequer Court, to the commissioners who were actually to preside over the inquiry prescribed the scope of their inquiry. Accordingly, if the inquiry pertained to a tax imposed by Parliament, the Exchequer's commission had to cite the act of Parliament alleged to have imposed the tax as the simple contract to be enforced. If it pertained to a statute staple, on the other hand, it had to identify the document alleged to be the statute staple upon which the debt was agreed to.

To meet the *Murray* due process rule, today's IRS procedures must mirror these same Exchequer procedures. In the case of individual income taxes, the IRC only authorizes the Secretary of Treasury, our equivalent of the Exchequer, to inquire about deficiencies on Form 1040 returns filed by an alleged taxpayer; it does not provide for the Secretary to inquire about deficiencies on income taxes imposed on individuals by an Act of Congress.

In any event, we know that the hearings before a Tax Court do mirror, in some aspects, the hearings that were held before the king's commissioners. However, the jurisdiction of the king's inquisition included the duty and authority to ascertain whether a debt was owing to the king, not just the amount of the debt, whereas the authority or jurisdiction of the Tax Court is limited to determining the correct amount of the tax alleged to be due and owing, the ascertainment of which had previously been ascertained by the filing of an unsigned "dummy" Form 1040 *statute staple* recognizance in the taxpayer's Individual Master File (IMF) by an often- unnamed revenue officer.

Do you believe that an impartial fact-finder or jury would, if properly instructed on the matters that you have learned herein, find that the "dummy" return mirrored the findings of a commission in England, or would the fact-finder or jury find that the unsigned "dummy" return resembled, but did not conform to, a *statute staple* recognizance in England in 1791? The answer is obvious!

However, this issue has never been drawn before a jury or a judge for the simple reason that no attorney has ever, to my knowledge, been aware of the grounds and facts that have been presented to you thus far in this book. However, I am certain that the issue concerning the nature of the foundation of the tax assessment, as set forth herein, will be looked into thoroughly by some intelligent lawyers after this book is widely disseminated, and what they will discover, as I did, will be that everything I have stated herein is to be found and validated by the English treatises cited by the *Murray* Court as authorities on English revenue processes.

The question remaining, however, is how does an attorney raise these issues to a jury after the Tax Court finding has been assessed by the IRS against the taxpayer? Better yet, how does an attorney demand a trial by jury before the taxpayer has actually paid the tax alleged to be due and owing, regardless of whether or not the amount was determined by the Tax Court, the IRS in its deficiency proceedings or even by the taxpayer him- or herself without full payment of the taxes set forth on the Form 1040 *statute staple* recognizance?

We will get to the answer shortly.

Chapter 12

WHY DOESN'T THE IRS JUST STATE, ON THE DEFICIENCY DOCUMENTS, THAT THE INCOME TAX IS IMPOSED BY IRC § 1?

I believe that many of you now have sufficient understanding to answer this question; others will be able to do so with a little friendly guidance. Let's walk through the process with "baby steps."

If the tax is imposed on ALL income under IRC § 1, then to comply with the *Murray* due process rule, the record of assessment must be arrived at as a result of the findings of an inquisition. Why? Because Congress is not going to mandate an income tax and then allow it to be collected only if and when the taxpayers are willing to agree to a *statute staple* recognizance in the form of a Form 1040 tax return. How many Americans, if given a real choice, would voluntarily pay the income taxes they are now paying. Some might. But all? Or even a majority? How many today voluntarily pay more than they believe they owe?

There is a difference under our system of government between a legal process and a lawful process. A legal process is one enacted by the legislature. A lawful process is one that is constitutional or comports to the common law, unless disallowed by the Constitution. Thus, it is possible for a legal process (one enacted by Congress) to be an unlawful process (one forbidden by the Constitution).

You see, the Due Process Clause of the Fifth Amendment is a bit in the mouth of government. When it wants to gallop too fast, the People pull back on the reins, the bit bites down on the horse's mouth and the horse sees the wisdom of slowing down. Here's how the *Murray* Court stated this concept in legal terms more eloquently:

> That the warrant now in question is legal process, is not denied. It was issued in conformity with an act of Congress. But is it 'due process of law?' The Constitution contains no description of those processes which it was intended to allow or forbid. It does not even declare what principles are to be applied to ascertain whether it be due process. It is manifest that it was not left to the legislative power to enact any process which might be devised. The article [meaning the due process clause] is a restraint on the legislative as well as on the executive and judicial powers of the government, and cannot be so construed as to leave congress free to make any process 'due process of law,' by its mere will.

Murray's Lessee, *supra*, 59 U.S. at 276 (bracketed words added for clarity).

It has always been my belief, backed up by years of reading in the dusty stacks of library shelves rarely visited by most people, that the Drafters of the IRC know everything I have written herein and a lot more, to be sure, and, therefore, to insure that it meets due process, they drafted the tax Code to conform with the ancient English revenue processes and did so with meticulous care and attention to details. They know, just as the *Murray* Court stated, that the Due Process Clause of the Fifth Amendment does not "leave Congress free to make **any process** 'due process of law,' by its mere will."

However, they also know that the American people and legal profession, attorneys and judges alike, have no meaningful understanding of the revenue laws of England in place in 1791. In formulating the IRC, the drafters have done everything they could to increase rather than to dispel that ignorance.

Nevertheless, with just a brief explanation of a commission to inquire and a statute staple, it is abundantly clear to the most casual, honest observer that the process used to obtain a Form 1040 record of tax liability has not the faintest resemblance to the process of an English *inquisition* or commission of inquiry (think of an administrative hearing, today). The Form 1040 process, therefore, must mirror the English recognizance process, and the record that supports the assessment obtained thereby must "be of the same *nature, kind, quality, force and effect*, to all intents and purposes, *as the writings obligatory* taken and acknowledged according to the *statute* of the *staple* at Westminster . . ." *Chitty, supra,* at 265-266. Why? Because there were only two processes used to summarily reduce debts owed to the king to matters of record in the Exchequer: the *statute staple* recognizance and the findings of an inquisition. Today's record of assessment must mirror one of those two processes in order to comply with the *Murray* due process rule.

Let's switch gears for a moment and walk the inquiry of this Chapter to its logical conclusion.

Suppose that the IRS stated clearly and unmistakably that the income tax is imposed on ALL income, with no exceptions. Armed with the knowledge you already possess, you would know that the government would be required to put witnesses on the stand in a fair court hearing and have those witnesses give testimony under oath that the Secretary or his authorized delegate had made the determination that ALL your income was taxable under IRC § 1, with no exceptions. Why? Because IRC § 6201 gives the authority to and places the duty on the Secretary to make all inquiries, determinations and assessments of all taxes imposed by the IRC.

Furthermore, the record of assessment is the recording of the Secretary's determination. See IRC § 6203. Treas. Reg. § 301.6203-1 (Method of assessment) states, in relevant part:

> The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, **through supporting records**, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown, and **in all other cases the amount of the assessment shall be the amount shown on the supporting list or record**. (Emphases added.)

An assessment is comprised of three parts: 1) a one-page "Assessment Certificate," signed by an authorized IRS assessment official; 2) a list of all the assessments included; and 3) the supporting or foundational record.

If the IRS witness testifies that the Secretary or his authorized delegate made the determination that all your income was taxable under IRC § 1, then your attorney should ask the witness to produce the foundation document whereby that determination (ascertainment) was made. If the witness produces the "dummy" Form 1040 inserted into your IMF tax files, your attorney will review it, note that there is no signature on it, ask the witness whether this mirrors a *statute staple* or the findings of an inquest, and similar questions. By skillful questioning, your attorney should be able to have the witness admit that it does not mirror an inquisition, but does mirror a *statute staple*. Moreover, because it does not have your signature on it, the Form 1040 *statute staple* tax return is invalid as a matter of law.

Why is this a matter of law? Here's what the Statute of the Staple required, in relevant part:

Chapter IX

*The effect of a **recognizance knowledged** in the Staple for recovery of a debt.*

> Item, to the intent that the **contracts** made within the same staple shall be the better holden, and the payments readily made; (2) we have ordained and established, That every mayor of the said staples shall have power to take **recognizances of debts**, **which a man shall make before him**, in the presence of the constables of the staple, or one of them.

Statute of the Staple, Chapter IX (Emphases added.)

It seems clear from the words of this Act of Parliament that the recognizance contracts were required to be taken before the mayor. I'm certain that any fact-finder would understand this to mean that the debtor was to enter into the recognizance contract of his or her free will. Moreover, in all my readings of the ancient English revenue processes and cases, I have never read a case, nor have I seen any reference to a case wherein the creditor was permitted to obtain a recognizance contract, bond or deed from a debtor without the debtor's agreement. Finally, line 33 of the Statute of Merchants makes clear the following:

> "And before that any recognizance be enrolled, the pain of the Statute shall be openly read before the debtor, so that after he cannot say that any did put another penalty than that whereto he bound himself."

Also, recall that Manning speaks of "**recognizances**, &c., which **bind by consent**."

Taken together, and mindful that any process used by the IRS must mirror a like English revenue process in use in 1791, an unsigned *statute staple* Form 1040 simply does not mirror any known English revenue process and is, therefore, a violation of the due process standard set forth by the *Murray* Court.

In my opinion, the substantive reason why IRS employees never cite IRC § 1 as the basis for the taxes they set forth on deficiency documents is that they, or their mentors, are keenly aware that the Form 1040 tax return that lies at the foundation of the assessment record is no different in principle from the *statute staple* taken and enrolled at the Exchequer in England in 1791. The taxes imposed in IRC § 1 become binding upon the taxpayer, therefore, by his or her knowing and voluntary consent to the Form 1040 *statute staple* contract, bond or deed. Anyone is free to volunteer ("pledge") to contribute to their church, organization or the government. However, once you have volunteered, that church, organization or government can, under the law of contract, enforce your "contribution," including any penalties and interest you agreed to, in a court of law.

So, now that you know why the IRS never cites IRC § 1 as the basis for the income taxes it alleges to be due and owing, you will need the services of an attorney who is both aware of the information herein and skillful in getting the government witnesses to bring forth the evidence required to support your case, whether civil or criminal.

That is why, if my health improves, I intend to write a second book on this topic aimed at educating attorneys on how to use this material in the defense of their clients who may have already encountered difficulties with the IRS officials. If you may have a catchy title for my second book, I would be very glad to have you post it at the bottom of my blog site at http://bit.ly/u0aCsb (that's my "taxation by misrepresentation" blog, in shorthand version).

Chapter 13

WHAT ARE THE CONTROLLING LEGAL STANDARDS APPLICABLE TO A TRIAL BY JURY BEFORE PAYMENT OF FEDERAL INCOME TAXES?

Here are the standards for trial by jury secured by the Seventh Amendment as set forth by the Supreme Court in *Markman v. Westview*, 517 U.S. 370 (1996). I know that the quotation is somewhat long, but because it is so vital to the remaining collection processes employed by the IRS, it is absolutely essential that you and your legal counsel, if you ever require such counsel in tax matters, grasp these ideas and authorities. I have felt it imperative to give you the whole ball of wax, even if it smacks of the study, so to speak:

> The Seventh Amendment provides that "[i]n Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved .... " U. S. Const., Amdt. 7. Since Justice Story's day, *United States* v. *Wonson,* 28 F. Cas. 745, 750 (No. 16,750) (CC Mass. 1812), we have understood that "[t]he right of trial by jury thus preserved is the right which existed under the English common law when the Amendment was adopted." *Baltimore* & *Carolina Line, Inc.* v. *Redman,* 295 U. S. 654, 657 (1935). In keeping with our longstanding adherence to this "historical test," Wolfram, *The Constitutional History of the Seventh Amendment*, 57 Minn. L. Rev. 639, 640-643 (1973), we ask, first, whether we are dealing with a cause of action that either was tried at law at the time of the founding or is at least analogous to one that was, see, *e. g.*, *Tull* v. *United States*, 481 U. S. 412, 417 (1987). If the action in question belongs in the law category, we then ask whether the particular trial decision must fall to the jury in order to preserve the substance of the common-law right as it existed in 1791. See *infra*, at 377-378.[35]
>
> A
>
> As to the first issue, going to the character of the cause of action, "[t]he form of our analysis is familiar. 'First we compare the statutory action to 18th-century actions brought in the courts of England prior to the merger of the courts of law and equity.'"*Granfinanciera,* S. *A.* v. *Nordberg,* 492 U. S. 33, 42 (1989) (citation omitted). Equally familiar is the descent of today's patent infringement action from the infringement actions tried at law in the 18th century, and there is no dispute that infringement cases today must be tried to a jury, as their predecessors were more than two centuries ago. See, *e. g.*, *Bramah* v. *Hardcastle,* 1 Carp. P. C. 168 (K. B. 1789).
>
> B
>
> This conclusion raises the second question, whether a particular issue occurring within a jury trial (here the construction of a patent claim) is itself necessarily a jury issue, the guarantee being essential to preserve the right to a jury's resolution of the ultimate dispute. In some instances the answer to this second question may be easy because of clear historical evidence that the very subsidiary question was so regarded under the English practice of leaving the issue for a jury. But when,

---

[35] Our formulations of the historical test do not deal with the possibility of conflict between actual English common-law practice and American assumptions about what that practice was, or between English and American practices at the relevant time. No such complications arise in this case. (Footnote 3 in original.)

> as here, the old practice provides no clear answer, see *infra,* at 378-380, we are forced to make a judgment about the scope of the Seventh Amendment guarantee without the benefit of any foolproof test.
>
> The Court has repeatedly said that the answer to the second question "must depend on whether the jury must shoulder this responsibility *as necessary to preserve the 'substance of the common-law right of trial by jury.'"* *Tull* v. *United States, supra,* at 426 (emphasis added) (quoting *Colgrove* v. *Battin,* 413 U. S. 149, 157 (1973)); see also *Baltimore* & *Carolina Line, supra,* at 657. '"Only those incidents which are regarded as fundamental, as inherent in and of the essence of the system of trial by jury, are placed beyond the reach of the legislature.'" *Tull* v. *United States, supra,* at 426 (citations omitted); see also *Galloway* v. *United States,* 319 U. S. 372, 392 (1943).
>
> The "substance of the common-law right" is, however, a pretty blunt instrument for drawing distinctions. We have tried to sharpen it, to be sure, by reference to the distinction between substance and procedure. See *Baltimore* & *Carolina Line, supra,* at 657; see also *Galloway* v. *United States, supra,* at 390-391; *Ex parte Peterson,* 253 U. S. 300, 309 *(1920); Walker* v. *New Mexico* & *Southern Pacific R. Co., 165* U. S. 593, 596 (1897); but see *Sun Oil Co.* v. *Wortman, 486* U. S. 717, 727 (1988). We have also spoken of the line as one between issues of fact and law. See *Baltimore* & *Carolina Line, supra,* at 657; see also *Ex parte Peterson, supra,* at *310; Walker* v. *New Mexico* &*Southern Pacific R. Co., supra,* at 597; but see *Pullman-Standard* v. *Swint,* 456 U. S. 273, 288 (1982).
>
> But the sounder course, when available, is to classify a mongrel practice (like construing a term of art following receipt of evidence) by using the historical method, much as we do in characterizing the suits and actions within which they arise. Where there is no exact antecedent, the best hope lies in comparing the modern practice to earlier ones whose allocation to court or jury we do know, cf. *Baltimore* & *Carolina Line, supra,* at 659, 660; *Dimick* v. *Schiedt,* 293 U. S. 474, 477, 482 (1935), seeking the best analogy we can draw between an old and the new, see *Tull* v. *United States, supra,* at 420-421 (**we must search the English common law for "appropriate analogies"** rather than a "precisely analogous common-law cause of action").

517 U.S. at 376-378.

Having viewed the standards for a trial by jury under the Seventh Amendment, we must now look at the standards set forth by Congress that may appear to be in conflict with this right to trial by jury before payment of the tax.

IRC § 7421§ PROHIBITION OF SUITS TO RESTRAIN ASSESSMENT OR COLLECTION

> **(a) Tax**
>
> Except as provided in sections 6015(e), 6212(a) and (c), 6213(a), 6225(b), 6246(b), 6330(e)(1), 6672(c), 6694(c), and 7426(a) and (b)(1), 7429(b), and 7436, no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.

This is commonly known as the Anti-injunction Act (AIA). Thus, you may not initiate any civil court action for the purpose of restraining the assessment or collection of any tax.

However, what if the government initiates a civil action against you? Would you or any court read this enactment of Congress as a restraint against your responding to the government's action? Clearly not.

In *Will v. Michigan State Police Dept*., 491 U.S. 58, 64 (1989), the Supreme Court reiterated its previous holding that, "in common usage, the term 'person' does not include the sovereign, [and] statutes employing the [word] are ordinarily construed to exclude it." (Citations omitted.) Therefore, because the federal government is not deemed to be a person under IRC § 7421(a) (AIA), it is not restrained from instituting a civil action by this statute. 

Moreover, 28 U.S.C. § 1340 grants jurisdiction to the federal courts to hear civil actions in tax matter, and reads as follows:

> § 1340. INTERNAL REVENUE; CUSTOMS DUTIES
> The district courts shall have original jurisdiction of any civil action arising under any Act of Congress providing for internal revenue, or revenue from imports or tonnage except matters within the jurisdiction of the Court of International Trade.

If, therefore, the federal government, through the Internal Revenue Service, initiates a civil action against a taxpayer prior to his or her payment of the tax alleged to be due, it must do so by some process or procedure that mirrors, or is no different in principle from, a similar process or procedure employed by the Exchequer for initiating an action against the king's debtors in 1791. What is that process, if any exists, within today's IRS practice? The answer to that question is the subject of the next chapter, perhaps the most important chapter in this book.

If such a procedure existed in England in 1791 and entitled the king's debtor to trial by jury before payment of the debt alleged, then the Seventh Amendment, as explained by the *Markman* Court secures that same right of trial by jury to the American taxpayer today prior to payment of the tax alleged to be due and owing.

Chapter 14

TODAY'S IRS NOTICE OF INTENT TO LEVY MIRRORS THE KING'S WRIT OF *SCIRE FACIAS*

Before beginning this chapter, I would like to set forth the Mission of the IRS from one of its own websites:

> IRS Mission:
> Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

http://www.irs.gov/pub/irs-pdf/p594.pdf (12/20/2011).

I have no doubt that there are many fine employees of the IRS who honestly try to abide by the IRS mission statement set forth above. I have, in fact, had occasion to deal with some such IRS employees. This book is not intended to be a personal attack on IRS, Treasury Department or Department of Justice employees, judges, or government personnel in general. My sole purpose is to reveal what my research has found, to alert the People of the United States, the People of which I love and cherish, to what I believe to be the deceitful practices of some members of the government in tax matters.

Because what I have discovered through long years of laborious and tedious research has not been known to the general public or the legal profession, I recognize that the inertia of the courts in changing directions 180 degrees from its nearly-100 years of tax rulings will be a serious impediment for any one judge to go up against. That is precisely why I have urged you, my readers, to publicize this knowledge far and wide and as quickly as possible in the political campaigns of 2012.

It is my fervent belief that, if the knowledge contained herein is widely diffused over the entire Nation, it will gradually make its way into the courts, the Congress and the legal profession in general.

Naturally, some legal scholars, who carry much more weight with the legal establishment than Glenn and I carry, will delve into the old books, will validate the research I have put forth herein, and will provide those members of the legal profession who are honest and courageous the necessary scholarly articles to argue to the courts the merits of what I have revealed herein. Only then, when the People, through their legal community, rise up in great numbers will real change come about in our present income-tax system.

A second track will be taken by those Members of Congress who read what I have written herein and who will join the ranks of such honorable representatives as Congressman Ron Paul and others like him. This book will give them the factual, historical and legal data necessary to persuade a majority of the Congress to do away with the present tax system and replace it with one that is more just, more transparent, more in keeping with the principles upon which our Nation was founded and one that will not make it necessary to imprison countless Americans for political tax crimes based upon false and fraudulent premises advanced by attorneys sent forth into the several states by the Department of Justice and enforced by judges who are woefully misinformed as to the true basis of the present tax Code.

Having said that, I now intend to lay the axe to the trunk of the tax tree.
For Crown debts that had been made of record and not timely paid upon notice and demand, the next step was for the Exchequer to prepare a list of such debts by revenue district and to send a copy of the list to the sheriff of the district, the King's collector, with a writ that charged him with the duty (1) to collect the debts by any execution process the law allowed to collect debts due to the Crown, and (2) before making any levy, to serve on the debtor a writ of *scire facias* (Latin: to make known).[36]

The writ, *scire facias*, was enacted by the Second Statute of Westminster, 13 Edw. I, Stat. I, Chapter XLV [45] (1285),[37] and can be read in both Latin and English on the Internet.[38]

What was the writ to make known? "It recites the inquisition, or the bond, or recognizance, etc., and commands the sheriff to warn the defendant to appear before the Barons [the title of the judges in the Court of the Exchequer] on a day certain, to show cause why the debt should not be levied."[39] "The general rule is, that an extent being process of execution, cannot issue without a *scire facias* . . . to bring the defendant into Court and afford him an opportunity of pleading any defense he may have. And the Crown has no election in this respect . . . a *scire facias* is absolutely necessary."[40]

All that and much more is encompassed in Mr. Price's short paragraph concerning the "extraordinary privilege of pleading in bar to the King's writs of execution," and fortunately is explained by him in great detail in his treatise of 753 pages.

In *Winder v. Caldwell*, 55 U.S. 434 (1852), the Supreme Court explained the nature of a *scire facias*:

> A *scire facias* is a judicial writ used to enforce the execution of some matter of record on which it is usually founded, but, though a judicial writ or writ of execution, it is so far an original that **the defendant may plead to it**. As it discloses the facts on which it is founded and requires an answer from the defendant, it is in the nature of a declaration, and the plea is properly to the writ.

Id. at 443 (emphasis added). The Court added more 42 years later:

> While a *scire facias* to revive a judgment is merely a continuation of the original suit, *Frierson v. Harris*, 94 Am.Dec. 223, notes, a scire facias upon a recognizance, or to annual a patent, or for other similar purposes, is as much an

---

[36] In English law, a writ of *scire facias* (from the Latin meaning, literally "let them|him|us know") was a writ founded upon some judicial record directing the sheriff to make the record known (*scire facias*) to a specified party, and requiring that defendant to show cause why the party bringing the writ should not be able to cite that record in his own interest. . . Proceedings *in scire facias* were regarded as a form of action, and the defendant could plead his defense as in an action. . . . The actual writ of *scire facias* has been abolished in the Federal district courts by Rule 81(b) of the Federal Rules of Civil Procedure, but the rule still allows for granting relief formerly available through *scire facias* by prosecuting a civil action. http://en.wikipedia.org/wiki/Scire_facias (12/21/2011)(emphasis added).
[37] http://bit.ly/sQUe6n (12/21/2011) (see sentence 8 on page 85).
[38] "(4) And if the Recognizance were made, or the Fine levied of a further Time passed [more than one year], the Sheriff shall be commanded, that he give Knowledge to the Party of who it is complained, that he be before the Justices at a certain Day, to shew if he hath any Thing to say why such Matters inrolled or contained in the Fine ought not to have Execution." Side note: "A *Scire facias* after the year." http://bit.ly/tyc659 (12/21/2011)(sentence 4, p. 109).
[39] *Chitty* at 272.
[40] *Chitty* at 271.

> **original cause as an action of debt upon a recognizance**, or a bill in equity to annul a patent. *Winder v. Caldwell*, 14 How. 434, 55 U. S. 443; *United States v. Stone*, 2 Wall. 525, 69 U. S. 535.

United States v. Payne, 174 U.S. 687, 690 (1893) (Bold emphasis added).

We have seen that the Supreme Court in *Murray* found that the Magna Charta prescribes that the King of England could take nothing from a subject until he had been give the right to make the King prove the validity of his claim to a jury of his subject's peers (equals).[41] Yet, "though it varied widely from the usual course of the common law on other subjects," *Murray*, 59 U.S. at 278, the practice was to record all debts, including tax debts, as judgments in the Court of Exchequer without giving the debtor the opportunity for a trial by jury. Upon failure of the debtor to timely pay the debt so obtained, the Court of Exchequer enforced the debt as a common-law judgment.

It would be a gross mistake, however, to presume that, before the King could take anything from such judgment debtors, the law did not provide a time, place, and mode of proceeding for them to put the King to the burden of proving to a common-law jury the validity of his claim, as required by the Magna Charta and the common law. The question of whether the law provided such opportunity, and, if so, how this was provided for under English law was not part of the proceedings before the *Murray* Court. Therefore, that question was neither addressed nor considered. However, the old English authorities that the *Murray* Court cited have clearly answered this question in detail.

Today, from your favorite home armchair, you may search electronic databases containing all of the decisions regarding the income tax of all of the federal courts from the inception of the tax in 1913 to the present. In the *Murray* decision, there are four treatises devoted almost exclusively to the revenue laws of England in 1791. An electronic search for them and their authors' names in the records of all federal courts yields but a single hit since the enactment of the current income tax in 1913, namely, *Phillips v. Commissioner of Internal Revenue*, 283 U.S. 589 (1931).

This was a case upholding the constitutionality of the seizure of money from the estate of an heir, whose benefactor, as a shareholder, had received a pro rata distribution of a corporation's value upon dissolution of the company. The tax had been assessed upon the corporation by means of a Jeopardy Levy without giving the heir or her estate the right to a trial by jury before seizure.

The Supreme Court noted that those who wanted to understand the reasoning behind their decision must understand a writ of extent in the second degree and should read the treatises of West, Chitty and Price cited by that Court in *Murray's Lessee*.[42]

The point of my bringing up *Phillips* is this: those authorities are well respected by the Supreme Court to establish exactly what was and was not due process under the revenue laws of England in 1791.

---

[41] "No freemen shall be taken or imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or by the law of the land." *Magna Charta*, ¶ 39 (1215) http://bit.ly/vxLSRd (12/21/2011).

[42] *Id*. at 595 n. 5 ("For the ancient English practise of summary seizure of the property of a debtor of a Crown debtor, by means of an immediate extent in the second degree, *see* West, *The Law and Practice of Extents*, cc. 1 3, 24; Chitty, *Laws of the Prerogative of the Crown*, pp. 261, 303-07; Price, *Laws and Course of the Exchequer*, c. XIV; Robertson, *Civil Proceedings By and Against the Crown*, c. III, pp. 203-04, 206-07. As to the adoption of the writ in this country, *see Hackett v. Amsden*, 56 Vt. 201, 206-07. *Compare McMillen v. Anderson*, 95 U. S. 41").

Given the Supreme Court's reference to these authorities in this 1931 case, what is astounding to me is that none of them has been cited by any federal court respecting a person's right to trial by jury before an income tax is paid. Any attorney who consulted West, Chitty, Price, and Robertson in order to understand Jeopardy Levies, as the Phillips Court directs them to do, would have known that trial by jury before payment of a debt alleged to be owed to the King was a fundamental right secured to every British subject in 1791. In plain English, this means that, before forced collection of the debt (or tax) by levy could be made, the subject was entitled to plead to the King's record and demand his right to trial by jury. There was only one notable exception.

Upon an affidavit that a Crown debt was in danger, due to the debtor's insolvency, death, or departure from the country, seizure of the debtor's property could be made on an immediate extent, what we would call a Jeopardy Levy, before trial, in which case he was given his right to a trial by jury after the seizure. Today's process, called a jeopardy assessment, meets the *Murray* due process rule in that it perfectly mirrors the English process in 1791 and is followed by the jeopardy levy.

A close reading of both *Murray* and *Phillips* will reveal that, in both cases, it was the summary seizure of property of insolvents for their tax liabilities that the Supreme Court found met due process muster, because such seizures corresponded to this exception in the revenue laws of England in 1791, namely, an immediate extent – in the first degree in *Murray* and the second degree in *Phillips.*

Why is it that these English treatises have never been cited by the courts in tax cases since *Murray*, with the exception of the *Phillips* case? I suspect the reason is simply that no one has ever properly presented these four authorities as justification for trial by jury before seizure in any tax case where there is no affidavit that the debt is in danger, or, perhaps, such a case has never made it to court. It would make eminent sense for the IRS to settle a tax case wherein the taxpayer had all these authorities lined up, rather than to risk letting this kind of knowledge out to the general public. I know this sounds cynical, but do you blame me?

It is my opinion that things would be vastly different today if, during the early days of the individual income tax, litigants had shown any court that these four authorities clearly establish that the modes and procedures used at the execution stage of revenue debt enforcement by levy clearly gave an aggrieved, purported taxpayer, absent an affidavit of danger, the right to trial by jury wherein the King had the burden of proving the validity of the debt he had summarily assessed.

In the case of a Form 1040 return, this would have required that the Secretary prove to a jury that the individual affected knew that the return was a *statute staple* contract, knew that the IRC was its recognizance and knowingly intended that his Form 1040 operate as a voluntary *statute staple* contract, bond, or deed. Of course, this would have exposed the voluntary nature of the income tax and would have made impossible the universal application of the income tax as a "supposed imposition" of Congress.

Because no such challenge and strong showing has been made in lo! these many decades, the idea that liability to the income tax has been imposed on the people by an act of Congress has become deeply engrained in our national psyche. Therefore, if such a powerful showing is now made, based upon these old English authorities, it is doubtful that any judge, whether in tax court, a district court, or a three-judge panel in a circuit court of appeals, even if the judge knew that that the showing was true, would sustain this fundamental right of the people for several reasons.

These judges know that, if they sustained this right, their decision would probably be overturned within the week, bring upon them a whirlwind of consequence, known and unknown, destroy their standing in the judicial community, doom their judicial careers, and probably bring audits and even prosecutions from the IRS. Perhaps there are some judges on the bench who are possessed of the courage and integrity to issue such a ruling, but one or even a few judges are probably not sufficient to overcome the weight and inertia of almost 100 years of contrary rulings by the federal judiciary as a whole.

However, presented with such proof of the law as I have presented herein, a judge knows that, were he or she to write an opinion to deny the people this fundamental right, a right supported by these old English authorities, would simply shed light on the judiciary's ignorance of or duplicity in the scheme to strip these ancient rights from the people. Such a "dishonest" decision would expose the fact that the IRS and the courts, on the one hand, use these ancient English processes to sustain the summary processes of the government, yet, on the other hand, deny their use to the People in their defense and would, thereby, bring this double standard to the attention of all who would read the opinion. Nevertheless, those who read this book will be well apprised of this possible double standard.

These English authorities make it perfectly clear that the revenue laws of England were part of the common law. At the heart of the common law is the principle set forth in the *Magna Charta*: before the King could legally take anything from a person, including taxes alleged to be imposed by Parliament, a subject had to be given the opportunity to make the King prove his claim in a trial by jury. However, to have required the King to file a common-law suit for every tax liability and prosecute that suit according to the usual course of the common law would have been a colossal waste of time and resources of the King, his subjects, and the courts.

Therefore, for cases involving the King's revenue, the common law devised a due process formula or equation admirably balanced to facilitate the interests and insure the rights of both the King and his subjects.

The usual course of the common law required a trial by jury before judgment and allowed no challenge to the judgment at the execution or enforcement stage. But this order of events was reversed in matters of the King's revenue. In cases involving his revenue, the common law gave judgment to the King by summary process, i.e., without a trial, and secured the subjects' right for a trial at the execution (forced collection or levy) stage. Thus, the King's summary modes of procedures in revenue matters was balanced by the subjects' opportunity for a trial by jury at the execution stage, before they had to pay anything and before the King could lawfully take anything from them.

In substance and effect, the matter of record in the Exchequer gave title to the king, but it was a title that he had to try to the jury, if the debtor challenged or pled to the title.

In 1791, this due process equation of the common law peculiar to matters of the King's revenue had been in use, essentially without change, for centuries. This long usage shows that it was admirably balanced to insure the interests of both King and subject. The subjects' right to a trial at the execution stage was a check upon the King from alleging debts that were not owed to him. Likewise, subjects would not challenge the King's summary assessment of debts they knew they owed. So, except for mistakes or honest disagreements, there was no need for a common-law complaint and a trial by jury.

We have seen that the *Murray* Court, and the old English authorities that it relied on, explained that the common law summarily gave both *statute staple* contracts and verified findings of

commissions to inquire the force and effect of judgments at common law. However, the subsequent right of Crown debtors to a trial by jury at the execution stage and the modes of procedure for them to assert that right were not at issue in the *Murray* case.

To insure the debtor's right to have his trial by jury, the law required that, before any levy could be issued on the King's debts, he had to serve on the debtor a *scire facias*[43] (*Latin*: that you make **known).** ***Scire facias*** was the name of a common-law writ and of the proceeding or lawsuit it initiated. It was founded on a public record, judicial or non-judicial. Judicial records were either judgments in former suits, or recognizances which were given the force of judgments.[44]

In the case of judicial records, to which our inquiry is limited, its purpose was (a) to make known to the debtor the judgment or recognizance that the King was asking the court to enforce by levy on the debtor's property, and (b) to give the debtor the opportunity to come into court and show why the levy should not issue.[45] In the law, both in 1791 and today, the *scire facias* is a writ in the nature of a summons and complaint that initiates a civil action or lawsuit to which the defendant may plead. If, in his answer, he denies the debt that the plaintiff alleged in the *scire facias*, the defendant was entitled to have the dispute settled in a common-law trial by jury.[46]

In England, in 1791, the law required that the *scire facias* be issued when the judgment to be enforced was over a year old, because the law presumed it would have been paid by then. However, in matters of the King's revenue, because the preexisting judgment had been obtained by the summary process of a *statute staple* contract or an inquest of office, its purpose was to advise the debtor of the particulars of the alleged inquest of office or the *statute staple* contract (recognizance) and the breach thereof and to give the alleged debtor the opportunity to answer and deny the alleged debt and have a trial by jury in the Court of Exchequer to settle the issue.

In the matter of the King's debts, the writ of *scire facias* is not only in the nature of a summons and complaint, it is also in the nature of an original complaint at common law. This was so because the debtor had been give no right to a trial on the preexisting judgment, which the Magna Charta and common law required before execution could be made.

Thus, with the particularity required of a complaint at law, the King's writ, first, had to set forth all of the material facts necessary to establish his claim. Second, as a summons, it had to clearly advise the alleged debtor of the court and time wherein he could appear and enter a plea or make any other defense he had to the allegations in the King's *scire facias*.

When a debtor appeared in the Court of Exchequer and denied the King's claim, the denial automatically stayed (stopped) the levy and put the King to the burden of proving his claim in a trial by jury according to the usual course of the common law.[47]

Moreover, before the alleged debtor was required to plead to the writ, he could, by motion, move the court to quash it for various flaws or deficiencies of the writ or any supporting document that the law considered fatal to the King's claim or process. If his motion was denied, he could then enter his plea and have his trial, and do it all without being required to pay any of the alleged debt.

---

[43] *Chitty, supra*, at 271; *Bouvier's Law Dictionary*, 14th ed 1870, *Scire Facias*.
[44] *Bouvier's Law Dictionary,* 14th ed 1870, Scire Facias.
[45] *Chitty* at 271 -272.
[46] *Bouvier's Law Dictionary,* 14th ed 1870, Scire Facias.
[47] *Chitty* at 271-273; Thomas Campbell Foster, *Treatise on Scire Facias*, 12-13 (1851); *Bouvier's Law Dictionary*, 1870 and 1914 editions, *Scire Facias*

By requiring the King to issue a *scire facias* to the debtor in all revenue collections, except for jeopardy cases, the debtor would then have the opportunity of coming to court and denying that he still owed the debt, that it had been previously paid, or asserting any other challenge to the debt and, if needed, proceed to trial by jury.

This process of trial at the execution stage was provided because the King had obtained his inferior judgment by a summary, what we would call, today, an administrative process, and the King's subject had not had an opportunity for a trial by jury, as required by Magna Charta. The King's administrative record or judgment was called "inferior" in that it could be pled to, whereas a final judgment obtained by the normal trial in court could not be pled to at the execution stage, because the debtor had already had his opportunity to try the King's debt before a jury and had lost, otherwise the King would not now be trying to execute or collect the court judgment.

This mode of procedure in matters of the King's revenue was the foundation of the King's summary procedures and, although delayed until the execution stage, the subjects' protection from the abusive application of the King's summary procedures was secured by this process. Thus, while "the usual course of the common law on other subjects" gave a defendant the right to a trial before judgment, the Exchequer's processes met the Magna Charta due process requirement of "the right to a trial before levy."

There was a second way that the common law secured to British subjects the right to a trial by jury to determine the legal validity of alleged tax liability to the King. They could pay the tax alleged by the King's collector and then sue the collector at common law to recover the payment.[48]

You may ask: why would anyone pay a tax so he could litigate its legal validity, when he could litigate it without paying the tax? The reason is that sometimes it is to his advantage. For example, when a customs agent won't release perishable or seasonable goods until the alleged tax is paid. If he waited for a common-law case to run its course, his goods would be worthless or their value severely reduced.

Moreover, in 1791, English subjects could challenge a tax liability or other debts alleged by the King by appearing before a commission to inquire and thereupon (1) move the commission be quashed for deficiencies in the King's process, and they could also (2) introduce evidence to prove the invalidity of the alleged debt. However, this being a summary process, the subject had no right to a trial by jury at that inquiry. Whether or not a subject exercised that right had no effect upon his right to a trial by jury by either paying the debt and suing the collector or, without paying, pleading to the King's *scire facias* at the execution stage. In other words, administrative exhaustion is not required in order to preserve the right to trial by jury in tax matters. See *Price* at 632 ("Defendants rejoin, that they never put themselves on that inquisition, nor interfered with the taking of it, wherefore they ought not, (etc), and pray judgment. The Baron reports the truth of that rejoinder, and thereupon a new inquisition is awarded, which is taken before the same Baron, when the jury find a verdict negativing, as in the plea, the charges, and finding of the former inquisition – and judgment is given in the usual terms for the defendants); *id*. at 682 ("It is therefore no answer or objection to a plea of equitable matter that it might have been pleaded before").

---

[48] See *United States v. New Mexico*, 642 F.2d 397, 401 (10th Cir. 981) (" The English case law demonstrates that the common law right to jury trial pre-dates the Seventh Amendment and any federal statutes. We are persuaded that the right of a taxpayer to a jury trial in refund cases is rooted in the common law and was preserved by the Seventh Amendment.")

The right to pay a tax and sue the collector for its recovery and the right to make a defense to an inquest of office are both useful and important. However, they are feeble and anemic protections when compared to the right to plead to a *scire facias* at the execution stage and thereby stay both the levy and the need to pay the alleged tax, pending the outcome of the trial.

What this chapter illustrates is that the King and Parliament could not deny the subjects' fundamental substantive rights secured to them by both Magna Charta and the common law. However, the King and Parliament could change the time and modes of procedure to enforce a substantive right, as long as the new procedures reasonably secured the substantive right in question. Thus, in cases involving the King's revenue, Parliament could authorize the King to summarily assess and collect alleged Crown debts, so long as those who did not agree with the summary assessment, by voluntarily paying it, were given the right to have a trial by jury before anything could be taken from them.

Chapter 15

HOW DID THE KING'S DEBTOR APPEAR IN COURT IN ORDER TO PLEAD TO THE KING'S RECORD (TITLE)?

Here is how Chitty addresses this very important question:

> There is some contradiction in the books whether or not the subject on a *monstrans de droit* [a showing of (his own) right], or *traverse of office* [denial of the king's office or title], is to be considered in the nature of a plaintiff or defendant. The older books consider him in the nature of a plaintiff: and consequently that the Crown may plead in disability of his person, and that he may be nonsuited. This doctrine is however rendered doubtful by subsequent authorities, and the reasons therein urged against it. The party assumes, and acts therein on the face of the proceedings in the nature of a defendant: he shows his right in the shape of a plea: the Attorney-General replies, and the subject when he takes the issue *ponit se super patriam* [he puts himself on the country, meaning, he puts himself and the matter to the jury], as on the other hand, the Attorney-General in that case *petit quod inquirator per patriam* [he prays that the matter may be inquired (considered) by the country (jury)]. And Lord Somers in his argument on this subject observed, "I take it to be generally true, that in all cases where the subject is in the nature of a plaintiff, to recover anything from the king, his only remedy at common law, is to sue by petition to the person of the King. I say, when the subject comes as a plaintiff. For, when upon a title found for the King by office, the subject comes in to traverse the King's title, or to show his own right, he comes in in the nature of a defendant, and is admitted to interplead in that case with the King in defence of his title, which otherwise would be defeated by finding the office [title for the King]." And in another part he said explicitly: "in this sort of proceeding (*viz. a monstrans de droit*), the subject is in the nature of a defendant, and comes in and pleads to a title found for the King." The decision in *Rex v. Roberts* is also to the same effect.

Chitty, *supra*, at 354-355 (footnotes omitted) (Bracketed material added by me for clarity.) See http://j.mp/uTC4lf (12/22/2011). See also, *Price*, *supra*, at 654 ("the defendant appears on the Record *quasi actor*, and in the character of plaintiff or suitor to the Court"). The term "quasi" means "as if" or "appears to be" but really isn't.

The King's subject, therefore, was appearing in the Court of the Exchequer as the defendant, pleading to the King's record, i.e., to the King's inferior judgment. However, because the King's officials had filed the record in the treasury side of the Exchequer and not into the Court itself, the subject had no record, case or judgment to plead to. Therefore, the first order of the business was to , in effect, move the King's case from the treasury side of the Exchequer into the Court of the Exchequer. The King's officials had initiated the action that resulted in the King's obtaining a judgment against the subject.

Recall that Price noted the true nature of the Great Pipe Roll:

> This Roll, being a record of the Court, all the debts written thereon are debts of record; and consequently, the Roll itself is in the nature of a Judgment Roll, and the process, for the same reason, is in the nature of an execution, with this singular exception, that **it may be pleaded** to.

Price, *supra*, at 68. Today's "judgment roll" is the Secretary's assessment records. Let me go into that assessment record in a bit more detail than I did before.

> Today, Congress, at 26 U.S.C. § 6203 has mandated that:
>
> The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. Upon a request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

Treas. Reg. §301.6203-1 has provided that:

> The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. The assessment shall be made by an assessment officer signing the summary record of assessment [Form 23C, sample at http://bit.ly/uo7Rwi].[49] The summary record, through supporting records [there are two supporting records to the Form 23C, First, a list where the pertinent information on each office found, *statute staple*, or judicial judgment is enrolled as a line item] shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment [the information in italics is the pertinent information to be enrolled as a line item on the list]. [Then, concerning the second supporting record for the Form 23C] The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown [the return being a *statute staple* it is a judgment or record consented to by the taxpayer], and in all other cases [taxes imposed by act of Congress] the amount of the assessment shall be the amount shown on the supporting list or record [a list per 26 U.S.C. § 6020 in alcohol or tobacco, etc., but in the case of income taxes an office found per § 6211 et seq., or judicial judgment per §7402]. The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed.

In *Bull v United States*, 295 US 247, 260 (1935), the Supreme Court explained that "The assessment is given the force of a judgment, and if the amount assessed is not paid when due, administrative officials may seize the debtor's property to satisfy the debt." It is obvious that the summary record of assessments, Form 23C, "*Assessment Certificate-Summary Record of Assessments*," is a judgment roll. It consists of (1) the one page Form 23C (Assessment Certificate) signed under oath of the assessing officer, (2) the list whereon the pertinent information of each underlying record is enrolled as a line item

[49] A computer-generated RACS 006 is also used today in place of the manually-signed Form 23C.

(Summary Record of Assessments), and (3) the record supporting each line item entry, which can only be a judicial judgment, *statute staple*, or an office found.

The assessment officer is certifying that the information on the list, which is in the nature of a judgment roll, is data that has been accurately transcribed from the supporting record. This perfectly mirrors the assessment process in the King's Exchequer. That it consisted of recording a debt on the great pipe roll was well settled law by the time of Edw. II. (1307-1327). See Sir. Thomas Madox, *History and Antiquities of the Exchequer of the Kings of England*, Vol. 2, 112 et seq., 2nd Ed. (1769).

As Lord Somers explained, if the subject were not allowed to appear as a defendant, the finding of the inquisition would stand, and the subject who allegedly owed the debt to the King would not be able to challenge or plead to the judgment-record, because, as a plaintiff, the subject could be nonsuited by the Attorney-General of the King. So, the process of the Court of the Exchequer required the subject to appear as a defendants, even though he appeared, in Price's term, as a *quasi actor* or supposed plaintiff, because he was the first party to appear in the Court of Exchequer, seeking to plead to a heretofore nonexistent case. The case, of course, did exist on the treasury or administrative side, but not in the Court side of the Exchequer. So, the debtor was required to appear, produce the King's *scire facias*, or subsequent extent/levy based on it, and plead to it before the Court of Exchequer.

The form and mode of pleadings by defendants and the burdens of proof they put upon the King are not set forth in this Book for reasons explained in Chapter 17. However, they will be explained in a second Book prepared for attorneys to show them where the defenses are presented and explained in the treatises of the old English authorities as well as in other early American legal authorities. In this way, attorneys may formularize themselves with the English revenue laws in 1791, compare our current tax laws to the English revenue laws, as the *Murray* and *Phillips* Courts did, and determine if and how this information may be used to defend their clients.

Chapter 16

WHAT ISSUES ARE TO BE TRIED TO THE JURY BEFORE PAYMENT?

The question of intent, in both civil and criminal trials, is a question of fact to be decided by the jury, not the judge. Perhaps the best explanation I have read was set forth by Justice Jackson in *Morrisette v. United States*, 342 U.S. 246 (1952), quoting Judge Andrews of New York:

> Where intent of the accused is an ingredient of the crime charged, its existence is a question of fact which must be submitted to the jury. State court authorities cited to the effect that intent is relevant in larcenous crimes are equally emphatic and uniform that it is a jury issue. The settled practice and its reason are well stated by Judge Andrews in *People v. Flack*, 125 N.Y. 324, 334, 26 N.E. 267, 270, 11 L.R.A. 807:
>
> > "It is alike the general rule of law and the dictate of natural justice that, to constitute guilt, there must be not only a wrongful act, but a criminal intention. Under our system (unless in exceptional cases), both must be found by the jury to justify a conviction for crime. However clear the proof may be, or however incontrovertible may seem to the judge to be the inference of a criminal intention, the question of intent can never be ruled as a question of law, but must always be submitted to the jury. Jurors may be perverse, the ends of justice may be defeated by unrighteous verdicts; but so long as the functions of the judge and jury are distinct, the one responding to the law, the other to the facts, neither can invade the province of the other without destroying the significance of trial by court and jury. . . ."

Morrisette, 342 U.S at 274.

The question, in a trial to the jury before payment of the income tax is this: Did the taxpayer sign the Form 1040 with the intent that it operate as a *statute staple* "of the same *nature, kind, quality, force and effect*, to all intents and purposes, *as the writings obligatory* taken and acknowledged according to the *statute* of the *staple* at Westminster . . ."? *Chitty, supra*, at 265-266 (emphases in *Chitty*).

Naturally, before this question is submitted to the jury, the taxpayer's defense counsel will be required to brief the court on the true nature of the Form 1040, including the distinction between the finding of an *inquisition* or commission and a *statute staple* contract given the force and effect of a debt of record by the Statute 33 Hen. VIII, c. 39, § 50.

The practical effect of getting this question before the jury is this, I believe. The government will never argue and the judge will simply not permit this question to reach a jury. Why? Because, if one jury were to find that the "dummy" return was not signed, or even that a return signed by the taxpayer was not signed with the intent that it operate as a *statute staple* contract, well . . . "game over!" That word would flash around the Nation faster than lightning.

The government is not stupid; it will never, in my opinion, permit these questions to be raised to the court and the jury. That is precisely why the only practical way to remove the hand of the government from the lives and property of all Americans is to spread the knowledge herein so far and wide that the Members of Congress, the courts and the officials in the Treasury and Justice Departments will know that their free ride has come to an end.

We've all seen how the Tea Party has gotten the attention of the government and the legislators. It appears to me and, I believe, to many others, that the People have had about enough of government and corporate greed, deception and oppression. Once they understand that their husbands, sons and daughters have been sent to prison, lost their homes, their families and their property because of the false and fraudulent enforcement of deceitful tax laws, I believe they will rise up in the hundreds of thousands, perhaps in the millions, and demand that the tax laws be changed, that their friends and relatives be released from prison, and that the Congress enact sensible and honest tax reform.

Naturally, Glenn and I can do nothing of ourselves to achieve this end. Only by the combined power of the masses of Americans will the courts, Congress and the Executive be brought to their senses. Legal arguments in the courts mean nothing, as I have sadly come to realize.

At a pretrial hearing before one of the judges in my criminal tax case, I informed the court that the Form 1040 had to be a *statute staple* contract and, therefore, voluntary. The judge responded, "Mr. Benson, I just don't believe that." That was the end of it.

During his testimony, Glenn tried to explain why we had taught our students that the law, as we understood it, required that people pay the taxes the law appeared to require, then, if they wished to challenge the law, they had to file an administrative claim for refund, setting forth the grounds and facts upon which the claim was based, then, if denied, litigate their issues in the courts. The trial judge cut Glenn off and simply would not permit him to testify as to his and my understanding of the tax laws.

In fact, the judge essentially informed the jury that we had knowingly committed a crime. Here is how the Tenth Circuit Court of Appeals stated this issue:

> Ambort claims the district court impermissibly restricted his right to present that good faith defense by excluding as irrelevant certain testimony. In particular, at several times during their trial, Ambort and his co-defendant, John Benson, talked about the procedures they were employing and were urging others to employ (pay the tax assessed, file for a refund, and seek further relief in court if the refund was denied) to challenge the established law as to who is a resident subject to taxation. On one occasion, the court responded to Ambort's testimony as follows:
>
> > Let me interrupt here.
> >
> > I am going to give you the instructions of the law in a little while, not that long from now, but I do want you to understand what are and are not proper defenses. It is a proper defense to the crimes charged here for the defendants to claim that they had a good faith belief that what they were advocating was lawful **even though it wasn't**. A good faith belief is a defense.
> >
> > Even a good faith belief that **resorting to knowing criminal activity as a method of gaining access to the court system**

> **is not a defense to a crime**. I don't want there to be any confusion on that. R. Vol. XXVIII at 1120-21.

http://bit.ly/uTrkT7 (12/23/2011). The reference is to our trial transcripts.

Let me show you what our tax seminars were based upon:

> There is no doubt that Cheek, from year to year, was to pay the tax that the law purported to require, file for a refund and, if denied, present his claims of invalidity, constitutional or otherwise, to the courts.

Cheek v United States, 498 U.S. 192, 206 (1991).

Here's what the Ninth Circuit had to say about the same passage from *Cheek*:

> He also chose to ignore two legal alternatives for challenging the tax laws. He could have paid the taxes allegedly due, filed a refund claim, and if denied, brought suit in federal court. *Cheek v. United States*, 498 U.S. 192, ---, 111 S.Ct. 604, 613, 112 L.Ed.2d 617 (1991). He could also have challenged the government's claims of tax deficiencies in the Tax Court without first paying the tax. *Id*. His actions "cannot be viewed as the proper path for petitioning for redress under the rights protected by the First Amendment." *Citrowske*, 951 F.2d at 901.

United States v. Kuball, 976 F.2d 529, 562 (9th Cir. 1992).

So, you see, abiding by the exact instructions set forth by the Supreme Court is not always a defense, even when your understanding of the Supreme Court's decision is affirmed by the Ninth Circuit.

My point is this: until the knowledge herein is absorbed by a large percentage of the American population, nothing you, I and/or Glenn do in the courts will amount to a hill of beans. We need a great following or we are whistling in the wind or baying at the moon!

I hope you will join our collective effort by spreading the knowledge herein as far and as wide as you are able.

Chapter 17

WHY GOING TO COURT WILL DOOM OUR STRUGGLE

After reading all this wonderful material, you may well be tempted to ask: "What action should I take?"

If you think that the IRS and the federal courts are going to allow you to waltz into court and get a fair hearing on whether a Form 1040 must be a statute staple in order to meet due process, much less a trial by jury on whether you signed Form 1040 with the knowledge that it was and signed it with the intent that it operate as a statute staple, you are either terribly naive or delusional.

I speak from experience on this subject. The IRS and courts routinely trumpet the argument that because IRC § 7422 allows a person to litigate in the district any issue he wants, constitutional or otherwise, without putting himself in peril by first paying the tax, filing a claim for refund, and if denied, suing the government for a refund. Yet, when Glenn and I taught people how to do this, the IRS prosecuted us criminally and argued in the federal district court in Salt Lake and 10th Circuit Court of Appeals in Denver that there was no way an alleged tax liability could be challenged without putting yourself in peril of a criminal prosecution.

Glenn and I were present at the 10th Circuit hearing before three appellate court judges when the attorney from the U.S. Department of Justice flatly stated to the court that Congress has created a catch-22 by requiring, in IRC § 7422, that the person state the legal issue they wished to litigate as the grounds for their claim for refund and yet, in IRC § 7206, have made it a crime to do exactly that, i.e., Congress has punished the very act of complying with § 7422 by allowing the government to punish, as a false and fraudulent statement on the claim, any challenge to existing tax laws if the person knew that the grounds he stated was not the current state of the law.

Of course, if this is true, at least in taxes, we have no rule of law. Congress can impose any tax and make it a crime to try and contest it in court. That would constitute absolute tyranny by a despotic government.

Here is what the Supreme Court has stated about this kind of catch-22 in tax matters:

> In a long line of cases, this Court has established that due process requires a "clear and certain" remedy for taxes collected in violation of federal law. *Atchison, T. & S. F. R. Co. v. O'Connor*, 223 U. S. 280, 285 (1912) (Holmes, J.). A State has the flexibility to provide that remedy before the disputed taxes are paid (predeprivation), after they are paid (postdeprivation), or both. But what it may not do, and what Georgia did here, is hold out what plainly appears to be a "clear and certain" postdeprivation remedy and then declare, only after the disputed taxes have been paid, that no such remedy exists.

Reich v. Collins, 513 U.S. 106, 108 (1994). Sounds marvelous on paper, but just don't try to rely upon anything the Supreme Court may have stated on paper when you are before the lower courts on tax charges.

Judges are sometimes referred to in England as "lions under the throne."

> Let judges also remember, that Solomon's throne was supported by lions on both sides: let them be lions, but yet lions under the throne; being circumspect that they do not check or oppose any points of sovereignty. Let not judges also be ignorant of their own right, as to think there is not left to them, as a principal part of their office, a wise use and application of laws. For they may remember what the apostle saith of a greater law than theirs; *Nos scimus quia lex bona est, modo quis ea utatur legitime* [We know that the law is good, if a man use it lawfully].

Francis Bacon, *Essays: Of Judicature* in *I. The Works of Francis Bacon* 58-59 (Basil Montague ed. 1852).

In our Nation, I fear, the lions under the throne are very quick to claw at anyone attempting to bring the truth about Income Taxes in plain English to the public. So, I have learned by sad experience that we must look to the Orient for our lesson on how a small minority may be able to defeat the most powerful enemy the world has ever known.

Who won the war in Vietnam? The strongest nation the world has ever known? Not at all. It was won by an enemy who was far weaker, had fewer men, fewer resources, and an army that fought in pajamas. All this we know. So, how did the North Vietnamese prevail over our far greater resources?

They won because of two factors: 1) their leaders took a broader, longer view of the war and of their enemy than our leaders did; and 2) their troops were absolutely disciplined; their troops followed the North Vietnamese battle plan to the letter.

Did they lose battles? Yes! Did they suffer many casualties on the battlefield? Absolutely! A week before the fall of Saigon, Colonel Harry G. Summers, Jr., met with his North Vietnamese counterpart and reported this exchange in the premier issue of Vietnam Magazine in 1988:

> "You know, you never beat us on the battlefield," I told my North Vietnamese counterpart during negotiations in Hanoi a week before the fall of Saigon. He pondered that remark a moment and then replied, "That may be so, but it is also irrelevant."

http://bit.ly/ueDq3z (1/1/2012).

What did he mean by saying our battlefield victories were "irrelevant?"

He meant that the war was being waged on two different fronts: 1) the military front, where the Americans prevailed; and 2) the political front national and international, where the Americans lost miserably.

The North Vietnamese knew that they were willing to lose countless battles and millions of men and women in their struggle for what they perceived to be their freedom to govern their own people. I believe it was their top general who, at one point, said that when we started to bomb Hanoi Harbor, they were ready to surrender, but then the political discontent in America flared up and they knew that if they hung on longer, the political pressure would cause us to capitulate. They also calculated that we would not be willing to continue the struggle to dominate a small, rather insignificant country, in the eyes of the world, under the constant glare of the international community, as well as under the eyes of the peace movement here at home. Add to that the pictures of Buddhist monks lighting themselves afire in the streets of Saigon, a local police officer, using a pistol to shoot a Viet Cong, kneeling in front of him, hands tied behind his back . . . well, the North Vietnamese knew that the conscience of the world and the conscience of the

majority of Americans would not allow this to continue forever. They were right in their assessment.

We are probably all familiar with the aphorism "the truth shall make you free." What was the "truth," then, that would prompt Buddhist monks to set themselves aflame in the streets, that would cause millions of South Vietnamese to align themselves with the Viet Cong, that would cause the entire Nation of North Vietnam to fight the French and then the Americans for decades, at the cost of millions of lives, billions of dollars of destruction to their Country, and the other incalculable costs of war inside their Land for, as I said, some 40 years or more?

We may argue over what the "truth" was, and "truth," like "beauty," may be in the eye of the beholder, eh! Their truth was that we were an alien power, and, as you probably already know, even the smallest dog will fight to defend his home territory against the largest, most fearsome intruder.

The North Vietnamese "truth," as they presented it to the world and to our news media, was that their homeland was being invaded by an alien power that had no right to dictate to them, or to their fellow countrymen in the South, the conditions of their existence. Regrettably, the South was governed by a succession of corrupt and inept leaders. None of them possessed the charisma of Ho Chi Minh, the leader of the North.

To many Americans, the "truth" about the Vietnam War was that we were wasting hundreds of thousands of American lives and casualties, not to mention billions of dollars of our treasure, on a land and a cause for which most could see no possible advantage to our Nation. That alone was sufficient to mobilize the peace movement. I rather suspect that much the same is true, today, of the sentiments toward the wars in Iraq, Afghanistan, and Libya.

In any event, the North Vietnamese strategy was to fight a two-front war, knowing that, if they held out long enough, the sheer numbers of body-bags visited upon the American Nation would eventually build sufficient political pressure here to turn the military tide in their favor. They were correct, as we all now know.

Much the same battle-plan is needed in today's struggle to free our Nation from an alien power set loose upon us in the guise of the IRS.

Under the ruse that the tax in IRC § 1 is imposed upon all income, the IRS, the Treasury Department, and officials of the Department of Justice, shielded and protected by the courts, have imposed the ancient feudal bondage upon a once-free Nation. Each and every time that the courts enforce a civil or criminal sanction upon an American under the pretext that he or she voluntarily consented to Form 1040 statute staple, they are in conspiracy with the IRS and the Department of Justice to violate numerous civil and criminal offenses against the People. Our job, as I see it, is to make known to the people of this Nation and, indeed, to the People of the entire world, that our courts have become complicit in the crimes committed in the name of the IRS against our People.

I believe that Gandhi, who knew a thing or two about freeing a people in subjection to an alien power, said that the job of a civil resister is to bring to light the hidden things that the world does not want to see, or something very similar.

The very same thing is true in our battles to free ourselves from the imposition upon us of essentially "alien" revenue processes and procedures dating back to the 13th & 14th Centuries and that, even under those "alien" processes, were enforced only to the extent that the processes were

entered into knowingly and voluntarily. I want to repeat, for the third time, line 33 of the Statute of Merchants, 13 Edw. I (1285):

> And before that any recognizance be enrolled, the pain of the Statute shall be openly read before the debtor, so that after he cannot say that any did put another penalty than that whereto he bound himself.

We are, dear reader, back to exactly the same problem that our Founders faced in 1776:

> He [meaning King George III] has combined with others to subject us to a jurisdiction foreign to our Constitution and unacknowledged by our laws, giving his assent to their acts of pretended legislation

Declaration of Independence (July 4, 1776).

Whether we want to admit it or not, we are now under the revenue heel of an alien power, a jurisdiction foreign to our Constitution, and are yearly bled white by judges of the lower courts and justices of the highest court in the Land who give their assent to acts of pretended or, in this case, false and fraudulent, legislation.

There is no doubt that they will continue to do so, as long as the American people dozily accept it. Nevertheless, the situation brings to mind what Gandhi told the British General in the movie *Gandhi*. Gandhi told him that the British would eventually leave India of their own accord. The General then replied, "You don't think we will just pack up and leave, do you?" Gandhi said, "Yes." The general asked why. Gandhi replied, "Because 100 thousand British soldiers simply cannot rule 600 million Indians who practice non-violent, non-cooperation." An American President, 535 legislators, a thousand, or so, judges, and their cadre of bureaucrats simply cannot impose upon 300 million Americans statute staple obligations unless the American people permit their public servants to do so, once they have come to understand the true nature of the current taxing system.

The North Vietnamese won because they knew their enemy better than the Americans knew the North Vietnamese. Whatever one's views may be of the Vietnamese, they were not only a courageous, but also a profoundly wise, People, in ways that we were not. Here's what Sun Tzu, the great Chinese General, military strategist, and author of *The Art of War* had to say on this topic:

> It is said that if you know your enemies and know yourself, you will not be imperiled in a hundred battles; if you do not know your enemies but do know yourself, you will win one and lose one; if you do not know your enemies nor yourself, you will be imperiled in every single battle.

The Art of War, Ch. 3, last sentence (6th Century B.C.) http://en.wikiquote.org/wiki/Sun_Tzu (1/1/2012).

What did the North Vietnamese know about us that we didn't know about ourselves? They knew from the clamor of the People that our political will to fight would not last long, and they were correct. They lost the military war but won the political struggle for what they believed in. Whether you agree or disagree, you must admire their strategy. They won; we lost! All because their leaders had greater wisdom than our leaders at that time.

So, what does this have to do with our struggle today? Suppose that some of the North Vietnamese soldiers and commanders had decided that they knew best what to do and began to

disobey orders from the North Vietnamese leaders. Suppose the troops and their commanders just decided to surrender as they began to see the horror and the futility of resisting the far-greater military power of the American forces. Their struggle might well have failed.

The same is true for us today in our great struggle to throw off the alien power now inflicted upon us by our revenue masters.

Let's put Sun Tzu's advice to use in our battles. Let's pause for a moment and put ourselves in the shoes of the IRS. What would you do if you were a responsible official in the IRS, read this book, believed all that was said herein to be true, believed also that the courts might ultimately rule against the current tax system and thereby do away with all that you and others had worked to put in place and enforce during your entire career? Even more, let's suppose you had been responsible for the prosecution and imprisonment of any number of Americans for willful failure to file tax returns or for tax evasion, that you knew that an essential element of both "crimes" was that the individuals were required to file and pay the taxes imposed in IRC § 1, that you knew that, in law and in fact, when the defendants' incomes were derived from occupations of right, as is true for most Americans, their filing and paying had to be voluntary, that you knew that they had no incomes subject to the tax imposed by the IRC, and that, despite this knowledge, you insisted on prosecuting, convicting and seeing them sentenced to prison. Now, you see your scheme coming unraveled because of the information in this book and its wide distribution in America.

In addition, you see Ambort and Benson pointing their fingers at you, the IRS official, as an enemy of the people, as a criminal, and as one who has virtually subverted the Constitution, maybe even been guilty of Treason against the People of this Land. What would you do to get rid of the information in this book?

The first thing I think most people in that position would do would be to set up a few "dummy" cases for the courts based upon what I have written herein, knowing that the judges would find some way to rule against the arguments quickly and decisively, the truth be damned, spread the word of such court losses in the news media, TV, radio, on Facebook, YouTube, Twitter, all over the Internet, and VOILA! POOF! Over 50 years of research, not to mention the truth about Income Taxes in plain English, up in smoke or down the drain, never to be mentioned again, and the tax system would continue unchanged for several more generations of our posterity until some future generation of leaders and followers, equipped with more wisdom than ours, would rise to the challenge and would know how to throw off the chains of feudal servitude now binding our people down.

No, my dear reader, you will never win by going into the courts at this time when this information is so very new and startling to the Nation and its People. Moreover, how many Americans are willing, as the North Vietnamese were willing, to lay all they hold dear in this life on the altar of sacrifice to rid ourselves of the tyranny that hangs over the Land? A few, to be sure, but to what end, to what purpose? There is a better way; please, allow me to explain.

Like the Vietnamese, we will not win in the battlefield of the courts until the political will of the American People overrides the dictates of the policy-makers in Washington, just as the North Vietnamese could not win on the military battlefields until the political will of the American People simply overrode the military policies of our leaders in Washing, compelling President Johnson essentially to step down from the Presidency.

The North Vietnamese eventually won on the military battlefields of Vietnam, but only after the political will of millions of American People had demanded an end to what they deemed to be the senseless sacrifice of blood and treasure on a cause that was of no benefit to them.

We, also, will eventually win in the courts of this Nation, but only after the political will of millions of Americans demands an end to an alien tax process that is foreign to our Constitution. However, the political will of the People will only come to full flower AFTER millions of them have seen the truth that lies at the foundation of our current tax system.

Do I wish it could be different? Absolutely! I wish that Glenn and I could go into court, demonstrate the truth in this book to the courts and the Department of Justice and walk away with a "win" that would annihilate the present taxing system. Word of that "win" would doom the tax system overnight, and we could be about other areas of interest in our lives. If I thought for a minute that this would be possible, I wouldn't be writing this book and thereby take the risk that somebody who is not half as prepared as we are would take these issues to the courts and bungle them up so badly that all our efforts would be for naught.

Like the North Vietnamese, we must stimulate the political will of the American People by the millions. Then, and only then, will we be ready to have some great attorneys who are dedicated to our cause (and they do exist) into the courts and argue our issues. By that time, even the courts will see the will of the people and be ready to rule correctly on the legal issues set forth herein. Until that point in time, any court action will be a total and complete waste of time and resources and will, in fact, be counter-productive and actually hurt our cause. 

Trust me; there are plenty of people who are already in trouble with the IRS and are now, or soon will be prosecuted for various tax crimes without our having to add to that number by senseless court actions. You can be sure that many more will see their homes and businesses seized for non-existent tax obligations. Better, by far, to pay another year or two of taxes and help build the political muscle to overturn the present tax system, not by litigation, but through education by teaching or sharing it with others, including your Senators, Representatives, IRS agents, and members of the Judiciary whom you may know socially.

You see, my dear reader, that our task, at this moment in history, is to duplicate what Thomas Paine and John Dickinson did in our Revolutionary period, educate a sufficient number of people as to the righteousness of our cause. Never forget that our Founders were themselves considered to be tax protesters against what they considered to be the unlawful taxation of the People by an alien power.

Only when something like 3% of the population had been educated as to the righteousness of their cause did they decide to march on Boston harbor for the now-infamous Tea Party and, from there, to open defiance of the King's writ.

There are something like 100 million votes cast in our elections. To educate 3% of that number would mean reaching some 3 million Americans. With that kind of political awareness, we would reach into the nooks and crannies of all America – lawyers, judges, legislators, the common citizenry, everyone would have at least heard about what I have written. Talk-show hosts will, I am certain, jump all over this material.

However, to reach 3 million Americans within a reasonable period of time will require massive distribution of this book. To accomplish this, I have established an affiliate program for those who wish to distribute the book.

You see, in the end, this is but a continuation of the battle for freedom that has been the constant struggle of the English-speaking peoples of the world and that is now a struggle of people across the globe. The question before us is whether we own our own bodies and the labor therefrom or does the government have a right of property in our labor.

If those who drafted the IRC believed that the government owned us, that it was sovereign and we were essentially modern-day feudal serfs, then they would not have been required to bury the foundations of our tax laws in the ancient processes used to bind merchants to voluntary contracts, bonds and deeds and then use the government propaganda machinery to pummel into us the belief that the tax in IRC §1 was imposed on all income, including the income produced by the labor of our bodies. It's clear that they did not believe that to be the case, but were extremely successful in their lies to the public, the legal profession and the courts.

We must make the truth known so clearly across America that every time that a prosecutors or judges condemn Americans for supposed "tax crimes," they will know and the people will remind them that they are criminals, that they are nothing more than feudal stewards on the federal manor, enforcing the feudal and involuntary servitude that is expressly forbidden by our Constitution. We must make them so aware of the criminal nature of their actions that it will hurt their consciences and they will eventually see the need to change their ways or simply become pariahs in the Nation.

When we have sufficient numbers of Americans alerted to the enemy within our Nation, then, and only then, will we be able to win in the courts.

As I have mentioned elsewhere, I am already in the process of writing a second book designed to educate attorneys on the points of law that they will require to win the court battles. However, I do not believe that such a book should be placed into circulation until at least 1,000,000 Americans, if not more, have become aware of what I have written herein.

It may seem to be a daunting task to get this book into the hands or computers of 1 million Americans, but if my affiliates will get the book into the hands of people with real influence in America, it could happen overnight. Rush Limbaugh, Alex Jones, George Noory, Glenn Beck, Neil Boortz, Dr. Jack Stockwell, Robert Chapman, Ron Paul, Henry Makow and others like them . . . if anyone of them got hold of this book, liked what he read and decided to make it a subject of their talk shows or campaigns, why the servers would be hard put to keep up with the downloads.

The IRS is currently putting a great deal of pressure on Swiss banks to reveal the names of Americans who, the IRS believes, are tax-dodgers and who keep secret bank accounts in Switzerland. If some of the Swiss bankers or their lawyers obtained copies of what I have written herein, they might well make hay with this book. They have connections with huge media companies like the New York Times, Wall Street Journal, LA Times, Washington Post, etc. They may see it in their interests to have the concepts herein published for the world to see.

Foreigners who think that the United States is meddling in their affairs might see publishing the book as a way to "get back at" the United States. You just cannot predict where and how this book may fly around the USA and, indeed, around the world, but it won't get off the ground unless we have the help of hundreds, maybe thousands, of distributors who can get it into the hands of people with whom Glenn and I have absolutely no contact or influence.

I could have put the book on Amazon for $9.95 and earned a 70% royalty from their sales, but would not have had a viable means to pay any commissions to distributors. By using the method I have set up and pricing the book at $24.95, I have the means to allow anybody who wants to distribute the book a 25%-50% commission and thereby enable those who want to join in my goal to overturn today's tax system some income to justify their time, talents and efforts to this great cause, something that I could not do on Amazon.

In my 35 years of active participation in the "patriot" movement, I have never seen a book on this topic ever become widely known very far outside the "patriot" circles. Frankly, there aren't enough "patriots" in the USA to change the current tax system. Real change will only take place when mainstream Americans become aware of the criminal nature of the tax enforcement policies now in play in our Country. When the heartland of America understands the criminal acts being committed by their public officials, judges, United States Attorneys, and prosecutors sent out from the Department of Justice, then, and only then, will we have sufficient political muscle to win the battles in the courts.

So, if you truly want to become active in overturning the current tax system, join me as an affiliate, and let's make 2012 the year that saw the end of today's evil income-tax system.

You see, my dear reader, in the end, this is a battle between good and evil. Our job, as I see it, is to bring to light those acts taking place under the cover of darkness and ignorance, to bring to light the hidden things of darkness. We are warriors of truth against the forces of darkness and evil!

So, LET'S LOCK ARMS AND FIGHT THE FORCES OF EVIL!

Chapter 18

ARE THOSE WHO ENFORCE TAX LAWS FRAUDULENTLY GUILTY OF CRIMES?

Please, permit me to repeat the sayings set forth at the start of this book:

> *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
>
> *When a man who is honestly mistaken hears the truth, he will either quit being mistaken, or cease being honest*. – Unknown
>
> *Men occasionally stumble over the truth, but most of them pick themselves up and hurry off as if nothing had happened*. –Winston Churchill
>
> *There are two mistakes one can make along the road to truth – not starting, and not going all the way*. – Buddha

If anyone has a right to accuse those who fraudulently enforce tax laws of committing criminal offenses against the People and against the United States, I would think that both Glenn and I have that right. However, neither one of us feels so inclined to do so for the simple reason that we both doubt seriously that any of those who prosecuted us actually had the least inkling as to the material contained within this book. Neither of us feels that we have the right to judge another man or woman for their actions.

I recall that immediately after we were found guilty, and the judge dismissed the jury and gaveled the case adjourned until sentencing, Glenn walked over to the prosecution's table, shook the hands of both prosecutors, wished them well, and told them that our fight was not personal towards them but was a fight with our government. The prosecutors both stood there stunned as they had each developed a personal animus toward Glenn because he was by far the most outspoken of the defendants. You will note that the judge gave Glenn 9 years and me only 6 years. I think the judge meant to send Glenn a message, but Glenn is not one to back down when he believes he is right.

At a pretrial hearing, he told the judge that the government could ask that he be sentenced to life in prison, they could even ask to have his head chopped off, but, he continued, he would never bend to an unjust law. With a million Americans of that persuasion, we could overturn this current tax Code in a year. Frankly, I believe that there are more than a million Americans with that kind of courage. All they lack is the knowledge that you now possess. Glenn and I have some ideas how to get this knowledge to them, and I have asked him to lay out our plans below.

Some of the Americans who will read this book will have friends in high places, perhaps in Congress, perhaps in the courts, perhaps in great corporations, maybe even in the hallowed halls of international banks and corporations, maybe even within the White House.

I have attempted to write this book without anger, bitterness or rancor. To be truthful, if Glenn and I had won our criminal case, we would probably have gone off in separate directions, pleased with how brilliant our defense was and been content with the knowledge we then possessed.

The one thing that you have in prison that you don't always have on the outside is "time," lots of time! You can waste that time, doing lots of nothing, or, like Glenn and I did, you can read, think and learn.

Glenn and I were sent to different prisons, but he later applied for a Bureau of Prisons (BOP) 18-month program designed to allow inmates to study their own and others' religious beliefs. As luck or divine providence would have it, the BOP sent him to the prison where I was located, Petersburg, VA, as that program was not available where he was located in Waseca, MN.

During the 18 months that we were together, we researched, read, thought and mutually shared ideas until the ideas set forth in this book began to come into clearer focus than either of us had before possessed. So, in an ironic kind of way, the prosecution may have done us and all other Americans a very great deal of good by putting us "down," as inmates refer to imprisonment. We both learned things that we might well have not understood but for the concentrated learning experience we both had in prison.

Would I have preferred to learn what we learned outside the prison walls? Of course I would have, but that is the way my life played out. So, I am not prepared to call any of the folks who had a hand in my unjust conviction and imprisonment criminals. They were doing what they honestly thought was the right thing, and at the time of our trial; neither of us was able to convince them otherwise.

That was then; this is now!

I believe that I have laid out the information in this book in a plain enough manner that everyone who is willing to see the truth will find it herein. If, on the other hand, they are closed to the truth, then they will not see it. There are some inside government who will see the truth and perhaps help us from the inside. Others will see it, yawn, and go back to the same old ways, because their job means a paycheck, food on the table, college for the kids, security for their retirement. However, there will be a few, I believe, who will come out from under the spell of the government and will join us in our efforts.

If those who see the truth and simply continue to enforce tax laws, all the while knowing that what they are doing is both false and fraudulent, what crimes are they guilty of? There are any number of federal criminal statutes that they may be guilty of violating: 18 U.S.C. §§ 242 (Civil Rights); 872 (Extortion); 1341 (Mail Fraud); 1343 (Wire Fraud); 1623 (False declaration before the Grand jury); 1961-1964 (Racketeer Influenced & Corrupt Organizations violations) (RICO); 1581 (Peonage); 1589 (Forced labor); and 26 U.S.C. § 7214 (Offenses by Officers and Employees of the United States). This last provision should apply to instances where an IRS agent attempts to coerce you into paying taxes not owed.

As I said, if any individual who has read this book continues to enforce what he or she clearly knows to be a fraudulent application of the tax laws, their actions are not only criminal, they even smack of treason, in my opinion.

Will they ever get prosecuted? I seriously doubt it. Why? Because they were extorting money for Uncle Sam. However, if the information in this book is spread throughout the Nation, we will all know who the real criminals are in tax trials, namely, the judges, prosecutors and government witnesses who pretend to be looking after the government's interests but who, in reality, are guilty of the greatest heist of honest dollars in the history of the earth.

You should also be aware of IRC § 7433 (Civil Damages for Certain Unauthorized Collection Actions).[50] Negligence by the IRS agent can be compensated up to $100,000. It also appears that Actual damages up to $1,000,000 may be awarded for other liability by the IRS.

This brings me to one final observation. I have been asked what I thought the true nature of the income tax is. Here's my answer in the next chapter.

---

[50] § 7433. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS
(a) In general
If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregards any provision of this title, or any regulation promulgated under this title, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Except as provided in section 7432, such civil action shall be the exclusive remedy for recovering damages resulting from such actions.
(b) Damages
In any action brought under subsection (a) or petition filed under subsection (e), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $1,000,000 ($100,000, in the case of negligence) or the sum of—
(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent actions of the officer or employee, and
(2) the costs of the action. . . . (emphases added; read the remainder of the statute at http://bit.ly/uklXiq)

Chapter 19

WHAT IS THE TRUE, CONSTITUTIONAL NATURE OF TODAY'S GRADUATED INCOME TAX?

The name bestowed upon it cannot affect its constitutional validity.
Murray's Lessee, 59 U.S. at 285.

Congress and the courts may refer to the graduated income tax in IRC § 1 as an "income tax," but is that its true nature or substance under the Constitution? I think not for the reasons I set forth below. Moreover, the courts routinely refer to is as a "Form 1040 tax."

In England in 1791, an excise tax secured by a statute staple bond to insure its timely payment was, by statute, prescribed as a condition to a person's right to the exercise of a government-granted privilege. In America, in 1895, the Supreme Court declared the income tax that Congress had enacted to be unconstitutional. The reasoning of the Court was that a tax on income derived from property was a direct tax on the property in violation of the rule of apportionment for direct taxes in the Constitution. Nevertheless, in 1909, Congress began to debate and consider imposing another tax on income. This prompted President Taft's "Special Message" to Congress on June 16, 1909, wherein he stated, in relevant part, the following:

> Second, the decision in the *Pollock* case left power in the National Government to levy an **excise tax** which accomplishes the same purpose as a **corporation income tax**, and is free from certain objections urged to the proposed income-tax measure.
>
> I therefore recommend an amendment to the tariff bill imposing upon all corporations and joint stock companies for profit, except national banks (otherwise taxed), savings banks, and building and loan associations, an excise tax measured by 2 per cent on the net income of such corporations. **This is an excise tax upon the privilege of doing business as an artificial entity** and of freedom from a general partnership liability enjoyed by those who own the stock.

Read more at the American Presidency Project: http://bit.ly/GGh8CH (3/21/2012) (emphases added.)

Later, in *Bowers v. Kerbaugh-Empire Co.*, 271 U.S. 170 (1926), the Supreme Court recognized that the term "income" had the same meaning (excise) given to it by President Taft in his Special Message to Congress:

> The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, 'from whatever source derived' without apportionment among the several states, and without regard to any census or enumeration. **It was not the purpose or effect of that amendment to bring any new subject within the taxing power**. Congress already had power to tax all incomes. But taxes on incomes from some sources had been held to be 'direct taxes' within the meaning of the constitutional requirement as to apportionment. Art. 1, 2, cl. 3, 9, cl. 4; *Pollock v. Farmers' Loan & Trust Co.*, 158 U.S. 601, 15 S. Ct. 912. The Amendment relieved from that requirement and obliterated the distinction in that respect between taxes on income that are direct taxes and those that are not, and

> so put on the same basis all incomes 'from whatever source derived.' *Brushaber v. Union Pac. R. R.*, 240 U.S. 1, 17, 36 S. Ct. 236, 241 (60 L. Ed. 493, L. R. A. 1917D, 414, Ann. Cas. 1917B, 713). **'Income' has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909** (36 Stat. 112), in the Sixteenth Amendment, and in the various revenue acts subsequently passed. *Southern Pacific Co. v. Lowe*, 247 U.S. 330, 335, 38 S. Ct. 540; *Merchants' L. & T. Co. v. Smietanka*, 255 U.S. 509, 219 , 41 S. Ct. 386, 15 A. L. R. 1305. After full consideration, this court declared that income may be defined as gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. *Stratton's Independence v. Howbert*, 231 U.S. 399, 415 , 34 S. Ct. 136; *Doyle v. Mitchell Brothers Co.*, 247 U.S. 179, 185 , 38 S. Ct. 467; *Eisner v. Macomber*, 252 U.S. 189, 207, 40 S. Ct. 189, 9 A. L. R. 1570. And that definition has been adhered to and applied repeatedly. See, e. g., *Merchants' L. & T. Co. v. Smietank*a, *supra*, 255 U.S. at 518 (41 S. Ct. 386); *Goodrich v. Edwards*, 255 U.S. 527, 535, 41 S. Ct. 390; *United States v. Phellis*, 257 U.S. 156, 169 , 42 S. Ct. 63; *Miles v. Safe Deposit Co.*, 259 U.S. 247, 252 , 253 S., 42 S. Ct. 483; *United States v. Supplee-Biddle Co.*,265 U.S. 189, 194, 44 S. Ct. 546; *Irwin v. Gavit*, 268 U.S. 161, 167, 45 S. Ct. 475; *Edwards v. Cuba Railroad*, 268 U.S. 628, 633, 45 S. Ct. 614. In determining what constitutes income substance rather than form is to be given controlling weight. *Eisner v. Macomber*, *supra*, 252 U.S. at 206 (40 S. Ct. 189).

Bowers, 271 U.S. at 273-74 (emphases added). I have left all the citations in this quotation for those who may wish to validate my research.

As you will note, if you read President Taft's entire Special Message, he asked Congress not to pass an income-tax law because the Supreme Court had already declared that unconstitutional. However, he then went on to note that the Court had held that they could tax corporate incomes. Therefore, Congress could tax corporations and use their incomes as the basis to determine the amount of the tax. Accordingly, that is what Congress did in the *Corporation Excise Tax Act of 1909* (36 Stat. 112), and that Act forms the basis of the modern income tax system.[51]

Thus, imposing an excise tax, insured by a statute staple bond, as a condition to the exercise of a government-granted privilege, mirrors the law in England in 1791 and, therefore, meets constitutional muster, whether the amount of the tax is a fixed dollar amount for a pilot's license or, as in the case of corporations, a percentage of the taxable income (profits and gains) realized from the exercise of the corporate privilege, as distinguished from its gross income or receipts. Thus, section 1 of the IRC imposes an excise tax on the taxable income of individuals, and any income derived from the exercise of a government-granted privilege is taxable income within its

---

[51] "It is obvious that these decisions in principle rule the case at 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 purposes 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. Howbert*, 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 [income] must be given the same meaning in all the 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." *Merchants' Loan & Trust Co. v. Smietanka*, 255 U.S. 509, 518-519 (1921)

purview, except taxes on privileges for which Congress has prescribed a set amount that the rule against double taxation would exempt.

As a further condition to the enjoyment of the corporate privilege, Congress has prescribed that the person must post/file a Form 1040 statute staple bond and has also prescribed the penalties for one's willful failure to do so. It has also prescribed penalties for one who has enjoyed or shared in corporate profits and who thereafter willfully tries to *evade* the tax.

Naturally, if it is income exempt by law, it is not taxable income, and there can be no penalty for willful failure to file or evade a tax on exempt income.

Congress may, of course, tax property directly, but it must abide by the rule of apportionment. However, income derived from property, whether real (real estate – land and things attached to it) or personal (labor, manual or intellectual) had, prior to the 16th Amendment, been held to be exempt from an excise tax by the apportionment clause of the Constitution, the supreme law of the land and, therefore, would not have been considered to be taxable income within the purview of section 1 of the IRC. Some, but not all, courts have held that the 16th Amendment changed all that.[52]

However, the 1943 Treasury Regulations, as well as today's Treasury Regulation at § 1.312-6, recognize that at least some income is, under the Constitution, not taxable by the Federal Government. The experts at the Treasury Department have consistently recognized that the Constitution contains some provision(s) that exempts at least some income from taxation by the Federal Government.

If, as is often claimed by the courts, IRS and Department of Justice officials, that the 16th Amendment authorized a tax on ALL income, why have the experts at the Treasury Department continued to promulgate the Treasury Regulations that reveal the contrary to be true, namely, that at least some income is, under the Constitution, not taxable by the Federal Government? Why have they used the statute staple process to enforce the IRC § 1 tax, knowing full well that the statute staple process binds only by knowing and voluntary consent? Why didn't they use a process that mirrors the Exchequer inquisition process to obtain a record of liability to the IRC § 1 graduated income tax on ALL income? Why is it that some courts rule that the tax is an indirect tax, others that it is a direct tax, and still others that it is neither a direct nor an indirect tax? Furthermore, why is it that the Supreme Court plainly states that it rejects the argument that all income constitutes "gross income" and is, therefore, subject to the tax in IRC § 1?[53]

To understand the true nature of the tax in IRC § 1, we must understand a little about the feudal law, a subject we Americans, laymen and lawyers alike, think is an antiquated relic of the dark ages. Were that it was so!

---

[52] For the confusion in the courts as to the nature of the income tax, see Larry Becraft, *Uncertainty of the Federal Income Tax Laws* (1999) http://devvyconklin.tripod.com/becraft.html (1/11/2012).

[53] "We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909 (*Doyle v. Mitchell Brothers Co., ante*, 247 U. S. 179, and *Hays v. Gauley Mountain Coal Co., ante*, 247 U. S. 189), 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,' and that the entire proceeds of a conversion of capital assets, in whatever form and under whatever circumstances accomplished, should be treated as gross income. Certainly the term 'income' has no broader meaning in the 1913 act than in that of 1909 (*see Stratton's Independence v. Howbert,* 231 U. S. 399, 231 U. S. 416-417), and, for the present purpose, we assume there is no difference in its meaning as used in the two acts." *Southern Pacific Co. v. Lowe* , 247 U.S. 330, 335 (1918) http://supreme.justia.com/us/247/330/case.html (1/11/2012).

A large portion, if not the majority, of all Englishmen, from the time of William the Conqueror in 1066 until 1791, were in the condition of servitude, the English variety of slavery, to their feudal-law or liege lord. If you were born into a condition of servitude, it was involuntary, and you were the real property of the manor or its lord and could only be freed by the manumission of the lord. So, those born into that condition and everything they acquired were the property of their lord.

Those who were not born into that condition could contractually obligate themselves to such service in exchange for some benefit from the lord, e.g., a little cottage on the manor, an acre or two to support his family, and the right for a few animals to run on the commons of the manor. But anything they acquired during their voluntary tenure belonged to their liege lord. This was voluntary servitude, and those persons could free themselves from this condition by surrendering back to their lord what they received in exchange for entering into that condition by contract.

A lesser variety of this voluntary servitude was an apprenticeship whereby, in exchange for the tutelage of a master, a person only conveyed title to his labor for a prescribed period of time while he learned the trade or occupation from his master craftsman. His labor during his apprenticeship constituted his service or servitude to his master. Moreover, in addition to his labor, anything derived from his labor during the tenure of his apprenticeship was the property of his master.

Millions of Englishmen came to America as indentured servants, supposedly for a period of years. However, due to extensions for trivial and nefarious reasons or infractions, their tenures, all too often, were for life. Indenture, in legalese, is a word for contract, and those contracts prescribed a servitude far more onerous than that for apprentices. You see, they were white and they were slaves.[54] The white slaves were very often worked harder and had to endure more hazardous conditions based upon simple economics. If you had two horses, one for a year and the other for life, which of the two would you care for more gently? The answer is obvious. Moreover, most of these indentured servants only cost their master the price of their passage from England, having been convicted of petty offenses and sentenced to be transported to America. Here is a short except from a book on this topic that illustrates the point:

> In 1855, Frederic Law Olmsted, the landscape architect who designed New York's Central Park, was in Alabama on a pleasure trip and saw bales of cotton being thrown from a considerable height into a cargo ship's hold. The men tossing the bales somewhat recklessly into the hold were Negroes, the men in the hold were Irish.
>
> Olmsted inquired about this to a shipworker. "Oh," said the worker, "the niggers are worth too much to be risked here; if the Paddies are knocked overboard or get their backs broke, nobody loses anything."

Michael A. Hoffman, *The Forgotten Slaves: Whites in Servitude in Early America and Industrial Britain* (1999) **http://www.revisionisthistory.org/forgottenslaves.html** (1/11/2012).

In 1791, there were tens, or hundreds, of thousands of American citizens in this condition of voluntary (or involuntary) servitude, and there were countless more who were in the condition of voluntary servitude in honorable apprenticeships.

---

[54] Do a Google search for "They were white and they were slaves." You'll find numerous sites with those exact words and the story behind the words.

Under the feudal law, it was the right and custom of the lord or master to make an annual exaction from his subjects. Such exaction was called a tallage.[55] In the case of the King, this was neither a direct nor an indirect tax, nor was it necessary, under English law, that Parliament impose such tallage for the King. The King could make this annual exaction on his servants, whether they had entered his service voluntarily or involuntarily, and whether their servitude was owed to him personally or to one of his many manors, and he could do so without the participation or consent of Parliament.

Thus, the tallage was neither a direct nor an indirect tax. It was a property right of a feudal-law lord and master in the labor and ownership of his servants and all that they possessed. The lord was merely transferring some of his property from the pockets of his subjects into his own pockets, much as he might go onto the commons and pick out a nice plump chicken, take it home, and have his cook prepare it for dinner, never mind that his serf might have raised the chicken from a hatchling. You see, everything that his eye could behold on his manor, including the serfs themselves, their supposed belongings, even their money, belonged to him. The feudal law invested in him the right of property in all *things* upon that manor. And what was the definition of a "thing," under the law? "**Thing**: a 'thing' is the object of a right; i.e., whatever is treated by the law as the object over which one person exercises a right, and with reference to which another person lies under a duty. Holl. Jur. 83." *Black's Law Dictionary* 1169 (1st ed. 1891) http://blacks.worldfreemansociety.org/1/T/t-1169.jpg (1/11/2012). Now, couple that with the definition of property. "**Property**: Rightful dominion over external objects; ownership; the right to dispose of the substance of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with it. Mackeld. Rom. Law, § 265.)" *Black's* at 953 http://blacks.worldfreemansociety.org/1/P/p-0953.jpg (1/11/2012).

Chattels were considered to be things, and serfs were considered as chattels real and, therefore, things, under the English and French feudal laws. In their monumental work, *The History of English Law before the Time of Edward I, vol. 1*, CHAPTER II: *The Sorts and Conditions of Men* (1898), Authors Sir Frederick Pollock and Frederic William Maitland state the following in § 3. *The Unfree*:

> In the main, then, all freemen are equal before the law. Just because this is so the line between the free and the unfree seems very sharp. And ***the line between freedom and unfreedom is the line between freedom and servitude***. . . .
>
> There are no degrees of personal unfreedom; there is no such thing as merely praedial [attached to the land, as praedial serfs] serfage. A freeman may hold in villeinage; but that is an utterly different thing; he is in no sort a serf; so far from being bound to the soil he can fling up his tenement and go whithersoever he pleases. . . . But as to the serf, not only could he be removed from one tenement, he could be placed in another; his lord might set him to work of any kind; the king's court would not interfere; for he was a *servus* and his person belonged to his lord; "***he was merely the chattel of his lord to give and sell at his pleasure***.
>
> * * *
>
> ***In relation to his lord the general rule makes him rightless***. Criminal law indeed protects him in life and limb. Such protection however need not be regarded as an

[55] Tallage, in medieval Europe, a tax imposed by the lord of an estate upon his unfree tenants. In origin, both the amount and the frequency of levies were at the lord's discretion, but by the 13th century tallage on many estates had already become a fixed charge.
http://www.britannica.com/EBchecked/topic/581584/tallage (1/7/2012).

> exception to the rule. Bracton can here fall back upon the Institutes:—***the state is concerned to see that no one shall make an ill use of his property***. Our modern statutes which prohibit cruelty to animals do not give rights to dogs and horses, and, though it is certain that the lord could be punished for killing or maiming his villein, ***it is not certain that the villein or his heir could set the law in motion by means of an "appeal."*** The protection afforded by criminal law seems to go no further than the preservation of life and limb. ***The lord may beat or imprison his serf***, though of such doings we do not hear very much.

Pollock & Maitland, *supra*, at 412-415 (footnotes omitted; emphases mine) http://bit.ly/GM9R2X retrieved March 21, 2012.

In *A Digest of the Laws of England* (1824) by Sir John Comyns (1667-1740), the Author has a section that is titled "Goods and chattels" and noted that "Goods and chattels are real or personal" (citation omitted). Under "Real" property he includes "A villein in gross for a term of years" (citation omitted) (http://bit.ly/GMaj11 retrieved March 21, 2012).

Under the common law of England and in this Country, as noted with approval by the Supreme Court in the *Dred Scott* Case, slaves were considered to be "real property."

There can be little doubt, then, that when, as is the case of the income tax in IRC § 1, the government chooses to, it may transfer as much of our income as it needs from our pockets to its pockets. It is a sad fact, but a true one, that the government has a right of property in its chattels, we are its *things*, real property, that the government may use as it chooses, and we lie under a duty to go along with its actions, regardless of what defenses we may try to assert in the courts. The government has a right of ownership in its chattel serfs and we lie under a duty to do the "serfly" thing or else. Perhaps you've noticed.

I seriously doubt that any red-blooded American would stand for such an idea if he or she once thoroughly understood the dreadful and insidious nature of what the experts at the Treasury Department have wrought in our tax laws, practices and procedures.

However, I also seriously doubt that, outside the experts in the office of the Treasury Department who have seized upon these odious relics of ancient English law and carefully crafted them into the IRC in such a way so as to obscure them from all but one who knows well that ancient law, there exists a single American who understands what I have explained in this book, be they layman or lawyer. How, then, can we expect to have sensible and rational decisions on taxes from the courts when they have been, like the rest of us, hopelessly bamboozled by the experts at Treasury?

Today's income tax is the modern version of a feudal-law tallage. Subjection to that exaction is a condition of public service or employment. However, those who derive their income from occupations of right must voluntarily obligate themselves to that condition of servitude by some other contract. That contract is the Form 1040 statute staple. When a person files one, he voluntarily consents to and acknowledges that the government has first dibs on the proceeds derived from his property, real and personal, for the tax year printed on the form itself. That this is the practical effect of filing a Form 1040 is too clear to admit of any serious debate.

Consequently, the government has argued in the courts and the courts have accepted the concept that a working American has no cost-basis in his or her labor. That can only be the case if your labor doesn't belong to you, but belongs to another. Who is the "other" who owns our labor? That's easy to determine. Who has the right to tell us how much we may keep and how much we

must "return" to the government? Have you ever wondered why they call it a income tax "return"?

Under the common law of England, for hundreds, perhaps thousands, of years, the feudal-law lord or the apprentice-master owned the labor of his serfs or apprentices. He could make an annual tallage of whatever portion of his serfs or apprentices that he felt inclined to make, and all without any authority required by an Act of Parliament. Sound familiar?

Naturally, we don't use the terms liegemen and liege lord, or master & servant, master & apprentice, today. Instead, we use the terms employer & employee. These latter terms are merely euphemistic (nice-sounding) terms for the old common-law relationships I have just described. The feudal law is alive and well in modern America! Perhaps you've noticed? So, now the government can make it a crime not to purchase health insurance. Why not home insurance, life insurance, etc.? When will it all end? Not until the masses of Americans have had enough, rise up and say, "Enough, already! No more!" And throw off the feudal chains that are now choking the life out of our rights and freedoms.

Thus, the income tax is neither a direct nor an indirect tax. It is a property right of the government, as a feudal-law lord and master, in the labor and ownership of its chattel-serfs. This is what the individual income tax mirrors in the laws of England in 1791 and, therefore, that is its true constitutional nature and cannot be altered or affected by the title Congress has applied to it.

Of course, in the case of the income tax, it is, and must be, a voluntary servitude, because the 13th Amendment prohibits involuntary servitude. Therefore, the liability to the income tax and servitude one agrees to on the Form 1040 can only be lawful if the taxpayer enters into that condition of servitude with the knowledge and intent required by law.

So, let's see if that lines up with the *Corporation Excise Tax Act of 1909* and President Taft's interpretation of it. Here's what that 1909 Act states, in relevant part:

> "That every corporation, joint stock company or association, organized for profit and having a capital stock represented by shares ... now or hereafter organized under the laws of the United State or of any State ... shall be subject to pay annually a special excise tax **with respect to carrying on or doing business by such corporation** ... equivalent to one per centum on the entire net income over and above five thousand dollars received by it from all sources during such year...."

Corporation Excise Tax Act of 1909 (36 Stat. 11, 112, § 38) (emphasis added) http://www.law.cornell.edu/supremecourt/text/231/399#fn1_ref (footnote 1; 1/10/2012).

It is clear from the Act itself, President Taft's Special Message, and the Supreme Court's Decisions in *Smietanka* and *Bowers* that the word "income", as used in IRC § 1 "**must be given the same meaning in all the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act."** That meaning clearly is the meaning attributed to the Act by President Taft, namely, "This is an excise tax upon the privilege of doing business as an artificial entity." Within the Constitution, this type of tax is termed an "excise" tax and comes within the type of tax called an "indirect tax."

The Treas. Regs. acknowledge that there is at least some income that is not taxable by the Federal Government under the Constitution.[56]

It is, of course, important, not only to read court decisions, but just as important to discern what process the drafters of the IRC employed and Congress enacted to lay a tax on incomes.

You see, the entire makeup of the IRC so perfectly mirrors the Exchequer revenue processes in use in 1791 as to make it extremely unlikely that such perfect mirror-reflection occurred by accident. It is my belief, based upon years of research, that there exists within the Treasury Department a group of professionals who know and understand everything I have set forth in this book. If these professionals, or their predecessors, believed that ALL income was taxable, they would have used a process to mirror the King's inquisition or commission of inquiry in order to obtain a finding that each individual was liable to the income tax in IRC § 1. They didn't do that. Instead, they used the statute staple process, a process that binds only by consent.

Moreover, taxes imposed by acts of Parliament were considered simple contracts that one agreed to by his representative in Parliament and were enforced as such. The first principle of due process – notice and the opportunity for a meaningful hearing – required that the statute alleged to impose the tax be cited in the commission to identify and specify the simple contract or legal foundation of the debt it was authorized to inquire about. Indeed, the same was true of all Crown processes concerning an alleged tax.

Therefore, when the commission or other process concerned a tax imposed by Parliament, the Exchequer practices required that the act imposing that tax or debt had to be clearly cited; failure to do so was, on its face, a fatal flaw negating the commission or other process.

Thus, if IRC § 1 imposes a tax on ALL income, due process requires that any IRS notice to the alleged taxpayer concerning its enforcement must clearly cite IRC § 1 as the simple contract that is the legal foundation for the action. Failure to do so is a fatal flaw on its face. For the same due process reason, in 1791, any process respecting an alleged Crown debt founded on a statute staple had to clearly cite the document alleged to be the statute staple contract. The IRS is under the same due process requirements today. This is well known to the Secretary and, therefore, he never has the IRS cite IRC § 1 on any of its processes in respect to an alleged individual income tax liability. Instead, the IRS always cites a specific document as the legal foundation for its action, namely, a Form 1040 for a specific year, a fact that you, dear reader, can verify by looking at any process or correspondence you have received from the IRS respecting an alleged income tax liability.

However, the knowledge that those experts in the Treasury Department possess and have craftily employed has never surfaced to the American People until this book was published. The courts, therefore, have simply not had the legal and factual data upon which to make informed and accurate decisions.

It is abundantly clear to me that the reason that the Drafters employed the statute staple process, rather than the inquisition process, was to allow individuals to volunteer to the statute staple obligation in IRC § 1 upon all their income, even that income that would not have been taxable by the Federal Government under the Constitution.

---

[56] 26 CFR § 1.312-6(b) (Earnings and profits) (b) Among the items entering into the computation of corporate earnings and profits for a particular period are all income exempted by statute, income not taxable by the Federal Government under the Constitution, as well as all items includible in gross income under section 61 or corresponding provisions of prior revenue acts. http://law.justia.com/cfr/title26/26-4.0.1.1.1.0.3.34.html (1/9/2012).

If, therefore, the Supreme Court is correct, and I believe that it is, then the term 'income" in the Sixteenth Amendment has the same meaning as it had in the *Corporation Excise Tax Act of 1909*, and, I believe we can all agree with President Taft, namely, "This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own the stock." As he said just a few lines earlier in his Special Message, "the decision in the *Pollock* case left power in the National Government to levy an **excise tax** which accomplishes the same purpose as a **corporation income tax**." I don't think it gets very much clearer than that.

However, because the people do not have that requisite understanding of this fact, today's income tax is, in practical effect, a form of coerced, involuntary servitude for the tax year in question. Insofar as one man or organization has an interest in another man's labor, that man (the one who labors) may be considered to be the other man's property. To me, there can be no better definition of involuntary servitude than that.[57] It is slavery, regardless of how you may try to sweeten it and regardless of how often the government propagandists may make it sound as if it were a duty as a member of this society.

We are right back under the feudal law and conditions of involuntary servitude imposed upon all Englishmen almost a thousand years ago by William the Conqueror and the subsequent Norman French Kings. No one owns anything of value that the government hasn't seen fit to tax, if not now, at least when we pass it along to our heirs when we die.

Of course, the government in all of its branches will pooh-pooh this understanding, belittle, ridicule, and do all they can to discredit and destroy anyone who dares to propound it, particularly if they do it in the courts. Call me a "raving lunatic," if you will, but I had rather be a raving lunatic who speaks the truth than a justice on the Supreme Court who speaks a lie on tax matters.[58]

We are in the same situation as Price explained was the reason he was writing his treatise on the revenue laws of England, namely, the dearth of the legal profession's knowledge of the revenue laws of England. As noted earlier herein, the *Murray* Court was familiar with Price's treatise and was able to discern that the revenue laws of the King "varied widely from the usual course of the common law on other subjects."

Nevertheless, as Price noted, those who should know the Exchequer laws, practices and procedures, the Barons/Judges of the Court of Exchequer and lawyers who practiced in it, were ignorant of them and rather than take the time to learn them, criticized and belittled those who knew it. This ignorance had come about because of the paralysis of the Exchequer during the reign of Oliver Cromwell. After his reign, the appointment of lawyers who had never worked in the Exchequer and knew nothing of the law and practice of the Exchequer were then appointed its Barons as political plums.

---

[57] SERVITUDE, civil law. A term which indicates the subjection of one person to another person, or of a person to a thing, or of a thing to a person, or of a thing to a thing. . . .
4. The subjection of one person to another is a purely personal servitude; **if it exists in the right of property which a person exercises over another, it is slavery**. When the subjection of one person to another is not slavery, it consists simply in the right of requiring of another what he is bound to do, or not to do; this right arises from all kinds of contracts or quasi contracts. Lois des Bat. P. 1, c. 1, art. 1.
Bouvier's Law Dictionary (1856) http://www.constitution.org/bouv/bouvier_s.htm (1/7/2012).

[58] "*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.

Much the same dearth of knowledge is present today within our legal profession, including lawyers and judges alike. The source of that ignorance is deliberately fostered by the Treasury Department's employment of those same Exchequer laws, practices and procedures, little understood in Price's day. It is also reinforced by what I personally believe to be a deliberately planned and carefully executed campaign of disinformation by officials at the Treasury Department, the IRS and the U.S. Department of Justice in order to obscure from the People and the courts the true history and nature of our tax laws, practices and procedures.

To me, this smacks not only of dishonesty in government; it is nothing short of massive fraud, theft on a scale unprecedented in the history of the world, subversion of the Constitution, betrayal of the offices entrusted to them, and Treason against the very People whom such officials are sworn to serve, protect and defend. In a word, those individuals who participate in such fraud and theft knowingly are nothing short of traitors. As a great Roman statesman stated over 2,150 years ago:

> A nation can survive its fools, and even the ambitious. But it cannot survive treason from within. An enemy at the gates is less formidable, for he is known and he carries his banners openly. But the traitor moves among those within the gates freely, his sly whispers rustling through all the galleys, heard in the very halls of government itself. For the traitor appears not as a traitor – he speaks in the accents familiar to his victims, and wears their face and their garments, and he appeals to the baseness that lies deep in the hearts of all men. He rots the soul of a nation – he works secretly and unknown in the night to undermine the pillars of a city – he infects the body politic so that it can no longer resist. A murderer is less to be feared.

Marcus Tullius Cicero, 106-42 B.C.

I do not doubt that the tax laws of our Nation are complex, so I only intend my harsh language to apply to those who are honestly mistaken. Here's how Justice Frankfurter phrased the issue of tax complexity:

> While *Dobson v. Commissioner*, 320 U. S. 489, is no longer law, the opinion of the much lamented Mr. Justice Jackson, based as it was on his great experience in tax litigation, has not lost its force insofar as it laid bare the complexities and perplexities for judicial construction of tax legislation. For one not a specialist in this field to examine every tax question that comes before the Court independently would involve in most cases an inquiry into the course of tax legislation and litigation far beyond the facts of the immediate case. Such an inquiry entails weeks of study and reflection. Therefore, in construing a tax law, it has been my rule to follow almost blindly accepted understanding of the meaning of tax legislation, when that is manifested by long continued, uniform practice, unless a statute leaves no admissible opening for administrative construction.

Flora v. United States, 362 U.S. 145, 177-178 (1960) (Frankfurter, J., concurring).

Nevertheless, those who are aware of what I have written, and I believe they exist within the Treasury Department, and those who now become familiar with what I have written herein, yet who continue to prosecute and persecute Americans who cannot, in good conscience, bring themselves to consent to a Form 1040 statute staple contract, deserve the harsh criticism laid upon such individuals some 2,000 years ago:

> Woe unto you, scribes and Pharisees, hypocrites! for ye are like unto whited sepulchres, which indeed appear beautiful outward, but are within full of dead men's bones, and of all uncleanness.

Matthew 23:27.

It is clear that experts at Treasury drafted today's tax Code to conform to the 1909 Corporation Tax Act. Let's examine how.

First, I want to explain that the employer-employee relationship of today is based upon the common-law relationship of master-servant.

> "[W]hen Congress has used the term 'employee' without defining it, [the Supreme Court has] concluded that Congress intended to describe the conventional master-servant relationship as understood by common-law agency doctrine."

Clackamas Gastroenterology Assocs. v. Wells, 538 U.S. 440, 445 (2003) 445 (internal quotation marks omitted) (quoting *Nationwide Mut. Ins. Co. v. Darden*, 503 U.S. 318, 322-323 (1992)).

In the legal encyclopedia, Corpus Juris Secundum, there is an article about the employer-employee relationship. It explains that we Americans do not like to use the master-servant terminology of the English feudal law. So, in lieu thereof, we use the terms employer-employee, but the relationship is the same. The article explains that, when a person is in the condition of servitude, i.e., employment, to an employer (master), the labor of the employee and the proceeds derived from it are the property of the employer. So, while such an employee may be employed by a third-party employer, this does not change the original employer- employee (master-servant) relationship, and any proceeds derived from the third-party employer for the labor of that employee are the property of his true master, the original employer.

Thus, if you volunteer into a condition of servitude for a year on a Form 1040 statute staple , conveying title to your labor to the government , you are in a master-servant, employer-employee relationship and the government allows you to work for anybody you want to. During that employment you are called the employee of the third party employer, but the proceeds from your labor is the property of the government.

The government could require the third-party employer to pay all of it over to it, if it chose to do so. The government could then pay your wage directly, according to the tax tables set forth by Congress. However, that would pretty well reveal the "game," don't you agree?

Instead, the government permits you to file a W-4 with your third-party employer whereby you claim certain deductions under the tax Code set forth in the IRS Tables and are allowed to retain the percentage Congress has decided to give you, while the remainder is paid by the third-party employer to its rightful owner, the U.S. Government.

If the IRS thinks you have claimed too many deductions, it sends your third-party employer a notice to pay you as though you were entitled to no deductions. If the employer fails to do so, the IRS holds the employer accountable for anything beyond that which the IRS had allowed. The courts will force the employer to pay the IRS the deficit. Doesn't that show you who the master is in this three-party arrangement?

Moreover, Congress may decide that it will take 20% and allow you an 80% wage, because, based upon the amount derived from your labor, it will take 80% for you to sustain yourself. Or

it may decide it wants 90%, as it did on some incomes during WWII, and it will allow you a 7% wage. If it does, that is all you will get and not a penny more. If that isn't servitude, pray tell, what is?

The Supreme Court has explained that labor is property. But*chers' Union Co. v. Crescent City Co*., 111 U.S. 746 (1884).[59] Indeed, as the Court went on to say, it is the most important property of a man, because it is the source of all other property. Your labor is property just as much as a share of stock in a corporation is property.

If a corporation has a two for one stock split or spins off a division, forms a new corporation and issues you shares of stock in it, the courts have ruled that this is merely a change in the form of ownership, and there is no profit or gain, i.e., there is no income realized. Likewise, if you own your labor, what it is worth is what you can get for it in the market. If you are willing to exchange some of your labor for a sum of money or other property, then that is what it is worth in the market. A mere change in the form of ownership does not constitute income, profit or gain.

However, if the government owns your labor and a third party employs you for a sum of money, the money paid for your labor rightfully belongs to the government, under the rules applicable to the common-law master-servant relationship. If, therefore, the government allows you to keep part of it as a wage, then that wage is income or profit and gain to you and is a cost to the government of letting its serfs to hire. Thus, when Congress lowers a tax rate, it increases the taxpayers wage and it also increases the costs to the government. This is why, when Congress talks about lowering tax rates, they say it will cost the government.

Thus, if a person is employed in an occupation of right, his labor and what he receives for it are his property and not subject to the tallage known as an income tax. However, if he has conveyed title to his labor to the government on a Form 1040 statute staple contract, his labor and the proceeds from it are the property of the government.

Of course, the government allows such volunteers to keep part of the proceeds derived from their labor, as it must in order for these volunteers to sustain themselves and be able to labor. Otherwise, it receives nothing. What it allows them to keep is called a wage, and we are led to believe that it is paid by the third-party employer, less the deductions for your tax bill.

In truth, your "wage" is a gratis allowance from the government. That is why the courts have held that you have no cost-basis in your 'wages.' Therefore, the argument that wages are not taxable is meritless. The true question is: Who owns or has legal title to your labor? You? Or the government? More to the point, the question is this: Who owns your body and the labor from it? Are you in a condition of servitude, are you a serf, are we the modern feudal-law serfs on the great federal manor, allowed to hire ourselves out to any third-party master or employer that we like, mindful that our true liege lord will allow us to keep a share of his income as a gratuity, so that we will have sufficient for our needs? Are we part of the agricultural capital of the manor,

---

[59] 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. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him. As it hinders the one from working at what he thinks proper, so it hinders the others from employing whom they think proper." Smith, *Wealth of Nations*, Bk. I, c. 10.

Butchers Union, 111 U.S. at 757.

like the horses, the ploughs, the oxen and the carts? Indeed, as Pollock and Maitland explain, this was the condition of the serfs in England under the feudal law. Not a pleasant thought, but I'm not here to tell you bedtime stories.

It is also why the argument that IRC § 3401 only authorizes withholding or collection of income tax at source on wages of government employees has been consistently denied by the courts, even when it is argued that the individual is not an employee of the government, i.e., he doesn't work for and receive a paycheck from the government. The courts have ruled that this section has a broader application, and, indeed, under the concepts that I have just explained, it does have a broader application, although no court will go into the detail and explanation that I have just laid out for you.

So, dear reader, here is my conclusion about today's income tax.

The Supreme Court has explained quite clearly that the administrative collection of revenues by the federal government must comply with the Due Process Clause of the Fifth Amendment. This means that its administrative processes must mirror those processes used by the King's Exchequer officials to collect debts due to him in 1791.

We also know that the ancient system of contract law originally established for merchants or commodity traders of the day by the acts of Parliament in 1285 by the Statute of Merchants, sometimes referred to as the Law Merchant, and expanded in 1353 by the Statute of the Staple, and applied to Crown debtors in 1542 by 33 Hen. 8th and 12 Eliz. in 1570, has been used to surreptitiously reduce the American people into a condition of voluntary servitude.

In accord with this ancient system of pledging title to one's body and property as a security for debt, our taxing officials have used the Form 1040 as a statute staple contract whereby individuals voluntarily obligate themselves to the individual income tax in IRC § 1. Moreover, these same officials simply bamboozle the entire American People by their misrepresentations into believing that liability to that tax and the filing of the Form 1040 return were duties imposed on them by statutes enacted by Congress despite the fact that they adamantly refuse to cite such statutes.

Furthermore, we have seen that a statute staple was a double contract. In the executory instrument to a commercial statute staple for a commodity received, the debtor agreed to a debt and a payment schedule, whereas by the second part of the double contract, the recognizance, that served as surety for its prompt payment, the debtor conveyed actual title to his body, lands and goods to the creditor as part of "the pain of the Statute."

Today's Form 1040 serves as the executory instrument to a contract whereby a person receives nothing but, instead, for the year stated on the Form 1040, voluntarily obligates himself to the tax in section 1 of the Code. By this instrument, he recognizes and agrees to Congress' unlimited right to the proceeds of his labor and all other property, real and personal, and thereby conveys himself into a condition of voluntary servitude for the year. The Internal Revenue Code, with all of its terms and conditions ("the pain of the statute"), including but not limited to the government's title to all property and interest in property enforceable if the tax is not timely paid, serves as the recognizance. Thus, the Form 1040 is double-whammy contract of voluntary servitude.

I have no doubt, of course, that you were always fully advised of this and have always filed your Form 1040s with this knowledge and intent. Right?

Chapter 20

IS THE INDIVIDUAL INCOME TAX ESSENTIAL TO RAISE AN ADEQUATE REVENUE?

The answer to that is an emphatic NO! There are other systems of taxation that will raise just as much revenue with a lot less effort on the part of the government and the people and that is infinitely more respectful of the rights and dignity of the people.

A national sales tax, for example, would raise just as much revenue. To administer it, compared to the income tax, would save the government hundreds of billions of dollars every year. Likewise it would save the taxpayers hundreds of billions of dollars every year in record-keeping, accounting, and legal costs.

The sales tax would be fairer because the 20 or 30 million who do not file or pay the individual income tax would have to pay the vendor the sales tax when making purchases.

So, the additional taxes the government would derive from these non-filers and its savings in administrative costs would approach half a trillion dollars a year, and could thus reduce the tax burden by that amount on current taxpayers. If it did that, added to the couple of hundred billion that the taxpayers would save on record-keeping, accounting and legal fees would give them ¾ of a trillion dollars each year to spend as they pleased. You think that would boost the economy just a tad?

The people would not be required to keep records of every dime they earn and spend and report it to the government. There would be no confiscatory civil penalties for failure to pay the sales tax at the time of purchase. If you failed to pay, it is the vendor who is accountable for and must pay the tax to the government. The people would have no threats that their homes, businesses, cars, or other property would be seized for failure to pay the sales tax, or their being put in prison for failure to file a return or evade payment of the sales tax – such penalties would still exist for merchants collecting the sales taxes.

Chapter 21

SO, WHY DO WE HAVE THE INCOME TAX?

The individual income tax is not necessary for the government to raise an adequate revenue. Its primary purposes are: 1) to reduce the people to the conditions of modern serfs, and 2) to govern and control them as though they were in a condition of supposedly voluntary servitude. The individual income tax is merely the instrumentality whereby freemen have supposedly voluntarily encumbered their fundamental and unalienable, God-given rights.

The condition of servitude one subjects himself to by filing a Form 1040 statute staple is the federal government's legal authority to regulate virtually all other areas of your life, but for which, under the Constitution, it has no such authority, areas that are within the exclusive jurisdiction of the State governments. Thus, the Form 1040 double contract is the instrument and process by which would-be (or wannabe, as the youth would say) tyrants in the federal government have managed to slip the federal government out from under the chains of the Constitution.

These would-be tyrants in government know that they must, at all costs, prevent the people from learning this. For, if the people do learn, they will take the steps necessary to firmly replace those chains and roll back the federal government's usurpation of regulatory authority in their lives.

In poker terminology, these would-be tyrants know they're "all in," and they're going to do everything they can to prevent the people from learning the true constitutional nature and character of the individual income tax and the Form 1040 tax return.

However, the basis for the federal government's regulatory authority is a subject beyond the scope of this book and will be covered in a third book, after the book to explain to defense attorneys, and any judges who will read it, the defenses that were available to Crown debtors in the revenue laws of England in 1791.

That's my Trilogy: 1) Tax Book (nature of income taxes); 2) Attorney defenses for tax offenses; and 3) the true basis for the federal government's regulatory authority!

Chapter 22

WHAT SHOULD I DO?

When it became apparent to me, some 35 years ago, that the average American knew, as I did, that something was not only drastically wrong with our income-tax system, but also that the federal government's never-ending regulation of virtually every area of our lives would continue to expand forever, and nobody seemed to know what to do about it, I made a decision that would forever alter my life. I set out to find the answers to these burning questions.

To find those answers has taken over 35 years and tens of thousands of hours of research, study and thought. The better part of 5 of those years was spent in prison and another 8 under the supervision of the U.S. Probation officers, 5 years during pretrial proceedings and 3 years after prison, having been released from this supervision one week ago, January 8, 2012. During the last 20 of those years, my close associate, Glenn, has done the same, only he has spent 8 years in prison, 4 years of pretrial supervision of U. .S Probation officers and will be under their watchful eyes for another 4 plus years.

Today, anyone who spends a mere few hours reading this book will know what is wrong with the income-tax system.

So, then, what should we do about it? How can we rid ourselves of it within the year?

The answer is simple. First, file your Form 1040 return and pay the tax, just as the IRS advocates that you should.

Second, encourage anyone else you can to read this book and help educate them as to the true nature of the individual income tax and the Form 1040 tax return.

I simply will never be able to bring myself to believe that the American People, once alerted to the feudal servitude now yoked upon their necks and upon the necks of their posterity, will lie quietly down and let the liege lords of Congress, the courts and the Executive have their way with our Nation and our People!

When the average American learns what is in this book, it will make him mad as hell. When a few million Americans know it and are sharing it with their friends and neighbors in person and over the internet and begin to question their federal Representatives and Senators about it, face to face, by phone, or the internet, any candidate or incumbent who wants to be elected or reelected to those offices or the presidency won't be able to disavow and repeal the income tax fast enough.

Moreover, the courts will come to realize that they cannot continue to enforce the individual income tax and the filing of the Form 1040 returns as duties imposed by acts of Congress nor deny the people the right to make their public servants in the IRS prove the validity of an alleged tax liability in a trial by jury before the tax can be enforced by levy, rights that every English subject in 1791 had before the King's Exchequer (Treasury) officials could enforce a tax. For the courts to ignore these rights would destroy any semblance of judicial impartiality, the rudimentary essential to the people's confidence in the courts and the rule of law. Furthermore, the courts will know that the people now understand that the statute staple contract was the process in England in 1791 to which the summary process of the IRS corresponds and, therefore,

know that, under the Constitution, the Form 1040 is, in substance and effect, a statute staple contract. What's more they will know that the people know that these are legal issues and always have been. The courts will know that they can no longer avoid these issues of law under the pretense that they are political questions.

Once this knowledge is widespread, if Congress has not abolished the individual income tax, if the Executive continues to enforce it on income, other than that derived from the exercise of government-granted privileges, the courts will recognize that they must put an end to the fraud in taxes and will issue the necessary decisions to do so.

By getting enough copies of this book in circulation in a matter of months, millions, or tens of millions, of Americans will know what's wrong with the individual income tax and will make sure that the candidates they are going to vote for in November are pledged to abolish it.

You may think that this is a fanciful day dream. But is it?

Thomas Paine's pamphlet, *Common Sense*, by many attributed as the essential stimulus to the American Revolution, was first published January 10, 1776. In the first three months it sold 100,000 copies and sold 500,000 during the Revolution.[60] So, within a very short time, when the fast means of disseminating it was by horse, on land, and by sail, on the sea, 1 in 4, or 25%, of all the free colonists had purchased a copy. The Declaration of Independence was signed on July 4, 1776, just five months after Common Sense was first published, and the rest is history. "'Common Sense' was so influential that John Adams said, 'Without the pen of the author of "Common Sense," the sword of Washington would have been raised in vain.'"[61]

Today, my book on taxes is available to all at the mere click of the mouse. I believe that, if 25% of American adult families became aware of what I have written in this book, today's income-tax system would be dead on arrival (DOA)! The power to kill this feudal tallage now rests with the People!

The scriptures tell us that, in the last days, all of the secret acts of men will be made known and will be broadcast from the rooftops.[62] With respect to our draconian tax system and the servitude

---

[60] Thomas Paine has a claim to the title *The Father of the American Revolution* because of *Common Sense*, the pro-independence monograph pamphlet he anonymously published on January 10, 1776; signed *"Written by an Englishman"*, the pamphlet became an immediate success.[18] It quickly spread among the literate, and, in three months, 100,000 copies (estimated 500,000 total including pirated editions sold during the course of the Revolution[19]) sold throughout the American British colonies (with only two million free inhabitants), making it the best-selling American book.[19][20] Paine's original title for the pamphlet was *Plain Truth*; Paine's friend, pro-independence advocate Benjamin Rush, suggested *Common Sense* instead.

18. ^ Introduction to *Rights of Man*, Howard Fast, 1961

19. ^ [a] [b] Hitchens, Christopher (2006). *Thomas Paine's Rights of Man*. Grove Press. p. 37. ISBN 0-8021-4383-0.

20. ^ Oliphant, John; *Encyclopedia of the American Revolution*: Library of Military History. "?". *"Paine,Thomas"*. Charles Scribner's Sons (accessed via Gale Virtual Library). Retrieved April 10, 2007.

http://en.wikipedia.org/wiki/Thomas_Paine (1/18/2012).

[61] ^ The Sharpened Quill The New Yorker, Accessed November 6, 2010, Source: http://en.wikipedia.org/wiki/Thomas_Paine (1/18/2012).

[62] "And I saw the dead, small and great, stand before God; and the books were opened: and another book was opened, which is the book of life: and the dead were judged out of those things which were written in the books, according to their works." Revelation 20:12

it has been used to impose upon the American people, this eBook is certainly a literal fulfillment of that prophecy.

The scriptures also tell us that in the last days learning will be made simple. By the internet, you may verify, from the comfort of your home or office desk, virtually everything in this book. Points of law and history that I had to go to law libraries in Atlanta, Dallas, Denver, Boulder, Salt Lake, Provo, Berkley and seek out old books, long out of print, and some available only on microfiche, you can verify in minutes on your computer, and most of them with multiple sources. This is another fulfillment of prophecy.

God tells us that he will fight our battles, but he also requires that we at least show up and make a little effort. The Lord caused the walls of Jericho to tumble, but He required Joshua to show up and march around it.

If you will spend a comparatively little time in this book, you will come to understand what's in it and will basically be able to explain it to others. Verify from the internet the accuracy of virtually any point you wish. Then share it with your friends and neighbors in person and on the internet and encourage them to do the same.

Face to face, by phone, snail mail, or email, question your Representative, Senators, and candidates for those offices. See what they know about the nature of the individual income tax. You will, I'm sure, find out that you know far more than they or their administrative assistants know. If they are teachable, teach them.

If they are not teachable, find a candidate who will vote to repeal that tax or make sure the IRC is written so clearly as to state that it applies only to income derived from the exercise of a government-granted privilege.

If you do this by November 6, 2012, we can have tens of millions of Americans going to the polls to elect federal Representatives, Senators and a President who are committed to abolishing and prohibiting the use of the Form 1040 return as a statute staple contract for any person to voluntarily obligate himself to a condition of servitude.

That is the flexing of moral and political power that the judiciary recognizes as much as do elected officials.

By doing this, nobody will get in trouble with the IRS, and with comparatively little effort, even if they worked at it full time from now until November, by the use of political means, non-violent and peaceful, we can rid ourselves and our posterity of the servitude that has been yoked on our necks due to our ignorance and has been secretly and surreptitiously foisted upon us by the draconian individual income-tax system.

The Declaration of Independence tells us that, when a government becomes destructive of the rights of the people, it is their right, no, it is their *duty* to correct it. Or as Justice Jackson stated it, it is not the duty of government to keep the people from erring; it is the duty of the people to keep the government from erring.

Now we know what's wrong with the individual income-tax system and what to do to correct it by peaceful, non-violent political means and comparatively little effort, LETS DO IT!

For, if we don't DO IT NOW, it may not be long until it cannot be done by such peaceful, political means and with so little effort.

I believe that the day will come when each of us will meet the Founders of our Nation. I also believe that they will ask us in a gentle, but piercing manner, what we did to maintain the liberty, rights and freedoms for which they pledged their lives, their fortunes and their sacred honor. What will your answer be?

God grant you the wisdom and the strength to do the right thing now, so that you will be able to give the right answer then!

Our Constitution and Declaration of Independence, marvelous as they are and the personal liberties they espouse, are merely pieces of parchment. Our generation, like every generation before and after us, must breathe life into them by internalizing in our hearts and championing in our actions the rights and values that they so nobly proclaim.

As Judge Learned Hand[63] has so well stated:

> What do we mean when we say that first of all we seek liberty? I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes; believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it.

"The Spirit of Liberty" – speech at "I Am an American Day" ceremony, Central Park, New York City (21 May 1944).

The English-speaking Peoples of Britain and America have fought to establish and defend the personal liberties of the individual for over 2,000 years, through the Roman occupation and the conquest by the Norman French kings.

The only remaining question, then, is this: Is ours the wretched generation that, after these 2,000 years of Anglo-American defense of personal liberties, after battles fought with Julius Caesar and his Roman legions, and after the centuries-long struggle to rid our Peoples of the effects of the conquest by the feudal Normans, are we the generation that will quietly and meekly, with little more than a whimper, accept and submit ourselves, our children and our posterity to the condition of voluntary servitude that took nearly 1,000 years to remove and thereby leave to our hapless posterity the duty to reclaim the personal liberties of free men

Forbid it! Lord God almighty!

Thou hast blessed us with Forefathers who have given us a government in which, by peaceful political means, we can throw out of our government would-be tyrants and their tyrannies. In our generation, Thou hast blessed us with an ease and speed to acquire knowledge unknown to previous generations and given every man the ability to shout from his rooftop, revealing the hidden works of darkness and thereby be heard in every corner of not only our nation, but the world. Father, bless us now that the spirit of liberty that imbued our founders as expressed by Patrick Henry may echo in our hearts and be manifested in our actions: "Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, *Give me Liberty, or give me Death!*"

---

[63] Billings Learned Hand (January 27, 1872 – August 18, 1961) was a United States judge and judicial philosopher. He served on the United States District Court for the Southern District of New York and later the United States Court of Appeals for the Second Circuit. Hand has been quoted more often than any other lower-court judge by legal scholars and by the Supreme Court of the United States. http://en.wikipedia.org/wiki/Learned_Hand#cite_note-SV-0 (1/15/2012) (footnote omitted).

As for me, Father, I simply will never be able to bring myself to believe that this is such an ignoble generation that, if alerted to the feudal servitude now yoked upon their necks and upon the necks of their posterity and if alerted to the means by which these would-be tyrants in our government have by knowing and sly misrepresentations imposed that yoke, will lie quietly down and let the Congress, the courts and the Executive, as feudal liege lords, have their way with our Nation and our People!

Dear Father, I thank Thee that Thou hast opened the eyes of my understanding and shown to me the treatises that verify the truth that I have poured forth in this book and pray that Thou will now prepare the way that the People of this great Nation will be exposed to this knowledge and that the powers of darkness will not be able to bottle it up and deprive them of it. Wilt Thou bless the people that, armed with this knowledge, they will, as their fathers did for 2,000 years before, stand fast in the defense of their personal liberties and reestablish a government of limited powers that respects and secures the personal liberties of its people, that this Land may once again shine forth unto the nations and peoples of the world as the great ensample it was when it was given to us by the Founders of this Nation, an ensample that has wrought changes in governments throughout the world resulting in the enhancement of liberty and freedom of the vast majority of mankind.

John Benson, Salt Lake City, January 20, 2012.

Chapter 23

OUR CRUSADE FOR FREEDOM TODAY

(I have asked Glenn to write this chapter, as he is in much better health to carry out the work needed to publicize this book than I am at the present moment.)

I want to explain a bit of history about John and his struggles to get this material into your hands.

When John began his research into the history of our founding documents, he wasn't particularly looking to focus his attention on taxes. That came later, after he discovered that the ancient Exchequer practices appeared to resemble the law and principles in the tax Code. In short, he began to understand today's laws only after he had begun to grasp the old laws, not just the common law, equity, admiralty and maritime law, but also the manorial law and the Law Merchant. You see, the old judges wrote to explain the law, whereas today's judges, by and large (there are exceptions), write to obscure the law.

For example, the *Bull* Court noted that an assessment has the force of a judgment, but failed to explain that it was a judgment of an inferior nature in that it could be pled to.

Why did the Supreme Court not explain that aspect of an assessment, or cite any legal authority to support this assertion when part of the verbiage it uses is a direct quote from the old English treatises it cited in its *Murray* Decision? Could it be that the justices were acutely aware that to explain that aspect would have been to "let the cat out of the bag," and if they cited one of these authorities, a good lawyer would check out the cite and find these explanations?

Another very interesting bit of legal history is this: Both the *Murray* and *Phillips* cases involved jeopardy levies, where collection of the debt due to the government was in danger due to the insolvency of the debtor, the one exception in the revenue laws of England in 1791 to the right of a Crown debtor to a trial by jury before any levy could be made.

Today IRC § 5331 requires that the Secretary have an affidavit that a tax is in danger due to the insolvency of the debtor before he can make a jeopardy levy, the mirror of the King's immediate extent, i.e., levy before giving a person the right to a trial by jury. Accordingly, notwithstanding the silence of the *Murray* and *Phillips* courts on this point, it was observed by them, and John and I both believe that each of these cases was decided correctly. However, neither case is of any precedential value to support depriving an alleged taxpayer of a right to a trial by jury before any levy when there is no affidavit that the tax is in danger due the insolvency of the taxpayer. Yet, both cases have been routinely cited by the IRS and DOJ and relied on by the appellate courts as authorities to justify denial of the taxpayer's right to trial by jury in tax matters before the tax has been completely paid.

Both John and I know that this conclusion conflicts with the Jury Trial Clause of the Seventh Amendment and it also conflicts with certain essential elements of both cases, as reflected in the English revenue practices in 1791. However, both John and I felt that John should not include his analysis of those two cases in light of the Jury Trial Clause of

the Seventh Amendment nor in light of the Due Process Clause of the Fifth Amendment. We both felt strongly that to include such an analysis would appear to give encouragement to some to go into court and attempt to overturn the existing tax structure with one "silver-bullet" case. We both know that the courts will not permit that to occur until after at least a few million Americans have become fully aware of the fraud and crimes that are now perpetrated by government officials and the courts in tax matters.

The sad state of legal knowledge in revenue matters is simply deplorable. John and I spent a combined 14 years in federal prison because my two appointed defense counsel, neither of whom had ever defended or appeared in a tax case, flatly refused to assist me in putting on my defense, because, as they told me, it might irritate the judge. I couldn't believe my ears, but as a consequence, I was never given the opportunity to put on a meaningful defense before the jury. John was ill and simply did not have either the strength or the court knowledge to carry on the fight against the government.

Regrettably, lawyers and judges have great faith in the efficacy of the state to impose solutions to problems or they would have chosen a different profession. Law school is a screening device that, on one hand, sifts out those who don't have faith in the state or, on the other hand, molds those who don't have such faith into those who do.

Is it any wonder, then, that, in 1830, Price made the following observation regarding this same subject, speaking of certain pleas in defense of English subjects?

> One main reason of the infrequency of such pleas is, no doubt, to be found in the declining state of legal learning as regards the business and proceedings of the Court of Exchequer. . . . but the injury to the subject which results from its disuse is most serious and extensive.

Price, *supra*, at 691-692. His book was published in 1830. Can you imagine what he'd say about the state of legal learning today as regards the business and proceedings of our tax attorneys?

Indeed, with respect to our personal liberties, J. Ruben Clark, a constitutional lawyer of some renown, has noted a similar failure in our legal profession, pointing out that our lawyers should have been our first line of defense, but they have failed us, and their failure has resulted in the dwindling of the sovereign rights of the people. He further warns us in his address given on November 21, 1952: "Let us not sell our children into slavery."

The reason, I feel, that it required a layman, like John, to research these tax laws and principles over a period of some 35 years is that lawyers, by and large, are motivated by the money that the lawyers need for support of their families. Mr. Clark points out that many lawyers justify their failure as our first line of defense against the deprivation of our personal liberties or sovereign rights because they focused solely on money for their families. The folks with the big bucks to fund lots of legal research have made their peace with the tax laws as they are and are usually doing very well financially.

Only the very wealthy could afford the substantial sums it would have required to have a lawyer to do the kind of research John expended to put all the pieces of the tax puzzle together. If any have done it, they have not used that knowledge in a published law case. The upper middle class, middle class and those at the bottom of the financial food chain could not afford it. So, many of those who wanted to challenge the tax laws have been

forced to do it on their own. As a result, you find all sorts of different theories pervading this area of tax law.

My point is this: The legal profession is simply not geared up to do the kind of research that John has presented in this book. It's not in the "business model" of a thriving law practice to delve into the ancient laws and IRS chicanery necessary to figure out the twists and turns in the processes and principles that underlie our tax laws, practices and procedures.

Moreover, for any attorney who has spent the time and research in tax law necessary to acquire such knowledge, tax law would undoubtedly constitute a sizeable portion of his legal business. He would know that to advocate what I have written herein in the courts would only damage his reputation and livelihood; there is nothing that the government and judiciary would resist more, because it would, in the main, neuter the individual income tax. The powers-that-be won't let that happen without one hell of a battle, and will destroy any attorney who would dare to raise such defenses. Truthfully, this would be one of the first objectives of the courts and the Department of Justice.

Furthermore, if any attorney did prevail, that would limit the income tax to those with income derived from the exercise of a government-granted privilege. Most of his business thereafter would be limited to defending people who have no such income. However, because they were no longer liable to the tax, they would no longer need his services in the future, and his tax practice would be dead. This would be akin to a grocer taking the majority of the commodities on his shelves and throwing them in the dumpster.

If you expect the government to admit the true legal foundation of the income tax, you must have been sleeping under a rock for the past century. As to the courts, they are under the constant and careful scrutiny of officials in the government whose job it is to watch every tax decision that is issued and twist and turn it, truth be damned, to the advantage of the federal fiscal purse. Why do you think they go after big names, like Wesley Snipes? Mr. Snipes, I'm quite certain, has more than enough money to pay all taxes, penalties and interest the IRS could possibly lay on him.

However, that wasn't what they wanted by prosecuting him. He was meant to be their "poster boy," demonstrating to the rest of the feudal serfs on the federal manor that they can bring down the biggest of us, so mind your tax P's & Q's or you'll be next in prison!

If the American People are going to get control of the runaway tax train, they will have to do it without the aid of the government or the major establishment figures. It will have to be a bottom-up, not a top-down enterprise; it will have to be, in my opinion, something on the order of Thomas Paine's pamphlet *Common Sense*, or *Letters from a Farmer in Pennsylvania* by John Dickinson.

> *Common Sense* is a pamphlet written by Thomas Paine. It was first published anonymously on January 10, 1776, during the American Revolution. *Common Sense*, signed "Written by an Englishman", became an immediate success. In relation to the population of the Colonies at that time, it had the largest sale and circulation of any book in American history. *Common Sense* presented the American colonists with an argument for freedom from British rule at a time when the question of independence was still undecided. Paine wrote and reasoned in a style that common people understood; forgoing the philosophy and Latin references used by Enlightenment era writers, Paine structured *Common Sense* like a sermon and relied on Biblical references to make his case to the

> people. He connected independence with common dissenting Protestant beliefs as a means to present a distinctly American political identity.
> Historian Gordon S. Wood described *Common Sense* as, "the most incendiary and popular pamphlet of the entire revolutionary era."

http://en.wikipedia.org/wiki/Common_Sense_(pamphlet) (12/23/2011) (footnotes omitted).

> *Letters from a Farmer in Pennsylvania* is a series of essays written by the Pennsylvania lawyer and legislator John Dickinson (1732–1808) and published under the name "A Farmer" from 1767 to 1768. The twelve letters were widely read and reprinted throughout the thirteen colonies, and were important in uniting the colonists against the Townshend Acts. The success of his letters earned Dickinson considerable fame.
>
> While acknowledging the power of Parliament in matters concerning the whole British Empire, Dickinson argued that the colonies were sovereign in their internal affairs. He thus argued that taxes laid upon the colonies by Parliament for the purpose of raising revenue, rather than regulating trade, were unconstitutional. In his letters, Dickinson foresees the possibility of future conflict between the colonies and Great Britain, but urges against the use of violence:
>
> > If at length it becomes undoubted that an inveterate resolution is formed to annihilate the liberties of the governed, the English history affords frequent examples of resistance by force. What particular circumstances will in any future case justify such resistance can never be ascertained till they happen. Perhaps it may be allowable to say generally, that it never can be justifiable until the people are fully convinced that any further submission will be destructive to their happiness.
> > —Letter III
>
> According to Mel Bradford, "The manner of Dickinson's twelve letters is well suited to their matter. In form they belong to the 'high' or 'sober' tradition of English political pamphleteering — as does *Common Sense* to its 'rough and ready' but popular counterpart." Bradford argued that the letters had antecedents in the writings of "Milton, Swift, Addison, and Burke," as well as the authors of Cato's Letters and the Roman statesman Cicero.

http://en.wikipedia.org/wiki/Letters_from_a_Farmer_in_Pennsylvania (12/23/2011) (footnotes omitted).

John and I have set a goal to do away with the present income-tax system in 2012 by spreading his research throughout the Land, just as Thomas Paine and John Dickinson spread their ideas through pamphleteering in the Revolutionary times. How to accomplish overturning the tax system was the question we both pondered when we first met.

At first, we thought teaching seminars would be the way to accomplish our goal. That landed us in prison for some 14 years combined.

After serving our time, we decided to prepare a defense of our actions, to be used for further appeals in our case. This effort has turned into this book, which will form an important part of our efforts to have our convictions overturned in the courts, perhaps in the Supreme Court or by Presidential Pardon.

Now, both John and I are aware that his book will have the most immediate appeal to the fringe elements of America, by which I mean those folks who have already come to the conclusion that something is wrong in America, that things aren't as they should be, at least, not according to our Founding documents.

Remember the quote by Margaret Mead:

> **Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.**

As mentioned above, once we have spread John's research to at least one million Americans, John will publish Book II for attorneys who want to defend their clients, using John's research as part of the defense for their clients.

John has laid all that he holds dear on the altar of sacrifice for the People and Nation he loves and for the Principles in which he believes. I took a solemn vow over 20 years ago to support John and his teachings at whatever cost it might require. I have literally been his servant, by choice, over these last 20 years, little realizing, then, the cost that such a vow would require of me.

Nevertheless, if I had to go back to prison for the remainder of my life, if I were to be sentenced to death row for the principles I have fought for beside John, I would not hesitate for a moment to renew that solemn vow. John and I are ALL IN for this battle. Doesn't New Hampshire print on its license plates "Live free or die"? Well, it's more than a motto for both of us. Trust me! I've been under the instrumentalities of federal law enforcement since May 1992 and don't get off supervised release (federal probation) until May 17, 2016. That's 24 years with a gun at my head for the principles John and I believe in.

John and I are Mormons; he, a good one; I, not so good! However, there is a principle that is sacred to both of us and that we have tried to live by for the 20 years of this struggle:

> 12 For there are many yet on the earth among all sects, parties, and denominations, who are blinded by the subtle craftiness of men, whereby they lie in wait to deceive, and who are only kept from the truth because they know not where to find it—
> 13 Therefore, that we should waste and wear out our lives in bringing to light all the hidden things of darkness, wherein we know them; and they are truly manifest from heaven—
> 14 These should then be attended to with great earnestness.

Doctrine & Covenants 123:12-14.

I want to close by sharing with you what you already know, I am sure.

Each generation is called upon to renew its claim to freedom. There are many who jump at every opportunity to lord it over their fellow men and women. This battle will never be finally won until men become angels. Whatever you and I do or don't do will inure to the benefit or detriment of the rising generations. However, it is my hope that it will never be said of our generation that we failed to answer the call to fight for liberty when that call was made.

Long ago, I told John that I was totally committed to his righteous struggle for our freedoms. “John,” I said, “I see this as a call to take that hill over there. One of two things will happen when I leave you to go out and do battle. You will either get a radio call from the top of that hill that we have taken it, or you will find my dead body on its slopes. There are no other options for me.”

John has marked out the path for us to make it to the goal line. Now, we need some down-field blockers!

My Brothers and Sisters of this Great and wondrous Nation! Won’t you join me in this glorious and dreadful struggle for the freedoms we all cherish!? None survive alone! We need you now, more than ever!

LET’S LOCK ARMS . . . AND FIGHT THE FORCES OF EVIL!

Glenn Ambort
January 20, 2012
Salt Lake City, Utah

Chapter 24

OUR WEBSITES

Here are our YouTube sites:

John: **http://www.youtube.com/user/JohnWBenson?feature=mhee**

Glenn: **http://www.youtube.com/user/gambort11?feature=mhee**

My website: **http://taxation-by-misrepresentation.com/**

Glenn's Blog-site: **http://glennspeaksthetruth.wordpress.com/**

As you know, I am classified as legally blind by the Veterans Administration (VA), so I'm not as prolific a researcher or writer as I used to be. I hope that the sales of my book will provide the funds required for the alternative health remedies I have looked into.

Please, allow me to digress for a moment and relate what to you may be a small story, but to me has enormous significance.

I have suffered from acute neuropathy in both feet and one leg for over 10 years. About two months ago, Glenn sent out an email to his friends, describing some of my ailments and my desire to pursue alternative health remedies. VA wanted to do open-heart surgery, but I declined.

In response to Glenn's email, a friend of Roger Sayles emailed me and told me of some supplements that had wrought, in his opinion, virtual miracles in a number of folks whom he personally knew. I purchased a month's supply.

In about 4-6 weeks, the neuropathy had almost completely disappeared.

The reason I am telling you this is that, for the last year, while I asked Glenn to edit my book because I simply did not have the strength and energy to do it myself, I have been using the special computer that the VA provided me, and that magnifies the print so that I can see somewhat through the remaining tunnel vision in my right eye, . . . I have been reading everything I can find on alternative health remedies.

You see, it is my belief that it is not only the IRS that exceeds the bounds of its authority and thereby causes grief to so many Americans, our Food & Drug Administration (FDA), in league with the huge pharmaceutical industry ("big Pharma"), also causes us to suffer from second-class health remedies and the like.

So, I intend to write a book on what I have discovered just as soon as I finish Book II on taxes and my own health improves sufficient for the tasks ahead.

We have lots of work to do to get the IRS back under control, and it will take millions of us to do it. Glenn and I cannot do it alone!

THIS NATION WAS FOUNDED

By

A UNITED GROUP OF TAX PROTESTERS

CAN A UNITED GROUP OF AMERICANS SAVE IT TODAY?

I BELIEVE THE ANSWER IS "YES!"

Chapter 25

MY PERSONAL JOURNEY TO BRING THIS BOOK TO YOU!

Glenn has urged me to tell you a bit more of my "personal" story as to what motivated me to bring the information in this book to you, my dear reader. By nature, I am quiet and a "loner." Glenn is more of an "in-your-face" kinda guy. So I hope you will not view this as my attempt to guild the lily, but I do recognize that some people want to know more about an author's personal journey, especially if that author's work may have some influence on their actions. It is in that spirit that I pen these words.

Many Americans have been so beat down by the IRS, senseless court decisions, and ceaseless false and fraudulent government propaganda on tax matters that they simply no longer possess the fire to stand up and fight the plagues of the IRS. Here's a great excerpt from a book by L. Ron Hubbard, the Founder of Scientology, on the topic of losing hope:

> As one's confidence in the physical universe declines, so does one's ability to handle it decline. One's dreams and hopes begin to seem unattainable, one ceases to strive. Actually, however one's ability seldom diminishes – it only *seems* to diminish.
>
> When the interior world tells of too much physical pain, the organism becomes confused. Like the child who finally says he doesn't want the nickel, the organism says it wants nothing of the physical universe and so perishes- or lives a while in a twilight and then perishes all the same.
>
> The goal is to win. When one has lost too much and too many times, the possibility of winning *seems* too remote to try. And one loses. He becomes so accustomed to loss that he begins to concentrate on loss instead of forward advance. And he does this quite irrationally. Because one has lost two cars does not mean one may lose three. Yet he who has lost two will actually be so prepared to lose three that he will actually, if unconsciously, take steps to lose the third. Thus it may be with people, with any object.
>
> As an individual descends the Tone Scale, he first begins to lose his confidence in trying to reach the further rims of his environment, the further frontiers of his dreams and becomes conservative. There is not much wrong with cautiousness but there is something wrong with chronic conservatism. **For sometimes it takes a wild charge to win a life**.

L. Ron Hubbard, *Self Analysis* 58 (Bridge Publications, Inc. 2007) http://bit.ly/zKRTN3 (1/14/2012).[64]

[64] Glenn is an avid student of L. Ron Hubbard (LRH) and of Scientology, in general. He hopes very much to be able to pursue the teachings and benefit from the technology that LRH developed. However, as a convicted felon, Glenn must seek "clearance" from the officials of Scientology before he is allowed to pursue his studies through their official channels. It is his hope (and mine) that, after the officials at

I have lived long enough to know that, not only members of the patriot community, but Americans in general have almost despaired of ever doing anything to change the current tax system. We have been so beaten down by loss after loss in the courts and administrative agencies that many of my fellow citizens have given up the battle to bring truth back into our tax system.

I have heard both good and ill about L. Ron Hubbard, the Founder of Scientology. At least, in this quotation above, I think he got it just about right, namely, when a person or a group of persons suffer too many losses, they tend to give up. Maybe the same is true of a Nation which, after all, is a collection of persons.

Now, I want to get a little personal with you, my dear readers. We have travelled a long road together, but I have not revealed too much about my personal struggles or those that Glenn has suffered.

When I was a very young man, I was given a personal priesthood blessing, much like the blessings that Jacob gave to his sons in Genesis, Chapter 49. In that blessing, the Patriarch told me that I had been called to work in the Lord's vineyard as one who would discover many hidden truths about our Nation and that people from all over the world would come to me, seeking answers to questions about our freedoms.

He also told me that I would go through a very dark period, almost like climbing through a dark glen up a hill, but that once I had mounted to the top of the hill, the light from above would shine, the scene would be of a country filled with beautiful houses, schoolyards, churches and a happy people.

Well, let me first tell you about the dark climb up the hill.

After Glenn and I had been convicted of tax crimes, on May 16, 2003, Glenn accompanied me back to my apartment and, once we were alone, broke down in tears and sobbed in utter agony over the fact that he thought that he had not fought hard enough to protect me from the devastating defeat we had just endured. In my 20+ years of knowing Glenn, that is the most despondent condition I have ever seen him in.

Nevertheless, several months later, at sentencing, on September 30, 2003, I remember him telling the judge that he would serve every day in prison in an honorable fashion without anger or bitterness, and then he said these words to the judge: "However, your Honor, in all candor, I must tell you that you and I have very different ideas about what the law requires."

Glenn had recovered his spirit! It will probably come as no surprise to you that the judge gave him the maximum sentence he could give him, at that time, 108 months (9 years) in prison, followed by 5 years of probation (supervised release, as it is called in the federal system), and gave me only 6 years in prison and 3 years of probation. I think the judge was sending a message, namely, I was in frail health and could not mount an effective defense. Glenn was in good health and would not give an inch to the government nor would he flinch before the judge.

This brings to mind the statement of Joseph to his brothers, who had sold him into bondage, after they discovered that he was now set over the household of Egypt:

Scientology read what is in this book, they will come to understand the true nature of Glenn's "crimes," and grant him the necessary clearance to pursue his studies with them.

> 5Now therefore be not grieved, nor angry with yourselves, that ye sold me hither: for God did send me before you to preserve life.
> 6For these two years hath the famine been in the land: and yet there are five years, in the which there shall neither be earing nor harvest.
> 7And God sent me before you to preserve you a posterity in the earth, and to save your lives by a great deliverance.
> 8So now it was not you that sent me hither, but God: and he hath made me a father to Pharaoh, and lord of all his house, and a ruler throughout all the land of Egypt.

Genesis 45:5-8.

Had Glenn and I won our case, it is very likely that we would not have thought as deeply about all the interlocking parts of the great puzzle I have put together within this book. True! It is all so easy to understand, now that I have put all the pieces together. However, in all candor, I did not put some of the pieces together until I had been in prison for several years and other pieces only after I had been released from prison.

So, like Joseph, I feel that it was not the judge, the jury or the prosecutors who sent me to prison; I was sent by God to contemplate deeply on the material I had researched during the previous 27 years, so that I could put it all together in a manner that could be understood by the average person who really wanted to know the truth about our tax system.

This is the reason why neither Glenn nor I have ever had any harsh feelings toward those who were forced to lie to the court and to the jury to have us convicted. This battle is being fought on a much higher echelon than most people might believe. I truly believe that the hand of the Lord is in these affairs.

I recall, as I write these words, a telephone call I received from Glenn, just after Christmas of 1991. In it, he proposed that we form a joint venture to teach my research findings in seminars across the country, to which I agreed. However, before we sealed the agreement, Glenn said that he had two questions to ask me: First, was I prepared to go to jail for teaching my research findings? I answered, "Yes." Then he asked, "John, are you prepared to be assassinated for teaching your beliefs?" I asked him why he asked such a question. He replied that he believed that, if my findings rattled the folks in Washington sufficiently, they might find a way to bring about our deaths in order to prevent the widespread knowledge of this information. When I acknowledged that I was prepared to die, if required, in order to get this material into the hands of the American People, only then did Glenn agree to support me in my teaching efforts. He wanted to be certain that we were both prepared to do all that it took to see this truth reach the people. He wanted to know if I was "all in!" I was and I am!

While I was not at that time familiar with this quote by Buddha, both Glenn and I were putting that principle into deadly action on that phone call. "*There are two mistakes one can make along the road to truth – not starting, and not going all the way*." Buddha. We both were prepared to go all the way.

So, why am I going into such personal details with you, dear reader? To relate to you this simple truth: The heavy lifting has already been done for you in our quest for freedom and an honest tax system. However, "Freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed." – Martin Luther King, Jr.

I agree with Dr. King, a great champion in the quest for freedom in our Nation. If we are to have an honest tax system, it will not be given by the officials in our government merely because I

have written the truth in a book; it will have to be demanded by the People. Dr. King mobilized millions of Americans through the power of the truth in his words. He had a dream that ultimately led to dramatic changes in our laws and, one might say, to the election of the first African-American to the Presidency, regardless of one's views as to the policies of President Obama.

We are on a quest on the same order of magnitude as Dr. King's dream-quest. He, as one man with a dream, inspired millions of Americans of all races, to join him in the struggle to free millions of African-Americans from the bondage of prejudice and poverty. I am on a dream-quest to free all Americans, of every race and political persuasion, from the bondage of enforced and involuntary servitude inflicted upon us all by a dishonest government.

Gandhi freed a nation of some 600 million Indians from the colonialism of Great Britain by non-violent means. Martin Luther King, Jr., employed much the same tactics to free his People from bondage. During my lifetime, I have witnessed hundreds of millions of people freed from the shackles of Soviet domination by peaceful protests of hundreds of millions of people who demanded freedom, even when tanks and troops were arrayed against them. The Peoples of South Africa eventually did away with the bondage of Apartheid (racism) by primarily peaceful means.

If over a billion people around the globe have freed themselves from one form of bondage or another by essentially peaceful protests and demands that the bonds of tyranny be loosed from them, are the People of "the land of the free and the home of the brave" any less able to employ the same peaceful means to demand that the feudal shackles of involuntary servitude be struck from themselves and their posterity?

I spent years and years, reading through the dusty stacks of libraries around the Nation, seeking answers to the questions I had about the differences I witnessed between the beautiful, almost poetic words and phrases I read in our Founding documents and the actual practices that take place in our courts and that are so contrary to those documents.

I gave up substantial job offers and career opportunities so that I would have the time to do the necessary research to find the answers I sought. As you know, Glenn and I withstood the withering fire of oppression, seizures at gunpoint, unjust prosecution, star-chamber court proceedings, and unwarranted imprisonment merely because we had the temerity to speak truth to power.

I tell you these things, not to seek any passing glory or admiration, but to let you know that, now that I have put all the pieces of the puzzle together, the heavy lifting is done. You, my dear reader, do not have to go through anything like what we and others have endured.

I truly believe that, if several millions of Americans drink deeply of the knowledge that I have poured forth within these pages, the high elected officials of our Nation and the judges in our courts will know that they can no longer pass and enforce tax laws that do not comply with the Constitution, that all IRS practices and procedures will have to be no different in principle from those practices and procedures employed by the King in 1791 to collect debts owed to him, and that the present Form 1040, U.S. Individual Income Tax Return, is no different in principle from the statute staple processes taken and enrolled in the King's Exchequer and that can bind only by the knowing and voluntary consent of the alleged taxpayer, if, and only if, he or she receives income that is of the same character and nature as was taxed under the Corporation Excise Tax Act of 1909.

You can help free this Nation from the comfort of your home office, den or kitchen table, with a laptop computer connected to the Internet. All you need do is to call or email your friends and acquaintances, after you have read this book, tell them why it is important that they read and absorb the material, invite them to purchase a copy of the eBook, invite them to become and affiliate and share the book with their friends and, before long, the dream-quest of one man will blossom into the dream-quest of hundreds thousands and then millions of Americans.

If this struggle is to be won at all, it will be won by the people, it will not be granted to us by the courts, Congress or the Executive branch of our government. I'm sure you recall Judge Learned Hand's quotation above.

If, therefore, we are to win this struggle for honesty in taxation, it will be won because the spirit of liberty lives and breathes within the hearts and minds of the People. However, unless and until the people understand the deceit that has been perpetrated upon them for almost 100 years, they will simply not know how to assert their rights.

To be effective, they must be armed with the truth. I believe it was Gandhi who stated, "When you know the truth, the truth makes you a soldier." So it is with our struggle.

However, our soldiers will do their fighting from their computers, without being required to put their lives, their homes, their families, and their freedom on the line. Ours is a struggle for freedom that has never been undertaken within the history of the world, to my knowledge. It is a struggle to educate millions of Americans on laws, practices and procedures that have, until this book, been shrouded in mystery.

I realize that it may seem to many to be a daunting task to go up against the powerful forces of the IRS. However, to paraphrase the last sentence of L. Ron Hubbard's quotation above,

SOMETIMES IT MAY TAKE A WILD CHARGE TO SAVE A NATION!