To Whom it may concern:

I am writing under the Freedom of Information Act, (FOIA) requesting clarification of conflicting positions between the IRS and the U.S. Supreme Court and Congressional testimony. I have been researching IR Code to better understand my lawful duties as an American citizen, but I am unable to locate where in the IR Code it supports the IRS position on a variety of topics, and must determine if the IRS is acting lawfully in my case.\(^1\)

I also cannot locate specific definitions for specific words in the IR Code, as listed below, but have located a host of precedent case law and Congressional testimony clarifying certain definitions and issues which the IR Code does not define and which seems to contradict present IRS usage and application of these words, and I need IRS professional answers to clear this up.

These specific questions and conflicts have never been lawfully adjudicated under Due Process, in any court in the United States, outside hearsay and presumption.\(^2\)

\(^1\) "Whatever the form in which the government functions, anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, even though the agent himself may be unaware of limitations upon his authority." The United States Supreme Court, Federal Crop Ins. Corp. v. Merrill, 332 US 380 388 (1947).

"Persons dealing with the government are charged with knowing government statutes and regulations, and they assume the risk that government agents may exceed their authority and provide misinformation." Ninth Circuit Court of Appeals, Lavin v Marsh, 644 f.2D 1378, (1981).

"All persons in the United States are chargeable with knowledge of the Statutes at Large... It is well established that anyone who deals with the government assumes the risk that the agent acting in the government’s behalf has exceeded the bounds of his authority.” Bollow v. Federal Reserve Bank of San Francisco, 650 F.2d 1093, 9th Cir., (1981).


“[A] presumption is not evidence.” Del Vecchio v. Bowers, 296 U.S. 280, 286, 56 S.Ct. 190,
by the IRS and the Courts... i.e. all cited cases the IRS provides to label these questions and positions as “frivolous” have NEVER been even partially or adequately raised or presented in ANY of the cited courts, and therefore they cannot be used as “evidence” for a lawful position against these challenges. The cited cases herein have NEVER been overturned, so for the IRS to avoid these issues, or label them as “frivolous” based on hearsay and presumption, has no standing in law and is attempted fraud and coercion of the American people.

Under FOIA, I am requesting the following documentation:

1. Please provide documentation as to what type of tax the IRS claims "income" tax is ... i.e., is it a direct or capitation tax, or an indirect or excise tax, or some other type of tax, and please clarify, with Constitutional law and court precedent.

2. Please provide documentation as to where in the IR Code it creates a personal liability to file a 1040 form for “income” taxes... i.e., all those “subject to” and “liable for” are required to file. Where in the code does it make any particular American personally “liable” for filing?

3. Please provide documentation as to where the word "income" is legally defined in the IR Code (or elsewhere).

This is not a request for the general "definition" as stated in CFR - 1.61-1 ...

Gross income. General definition. Gross income means all income from whatever source derived unless excluded by law.

Or. ..

Section 22 GROSS INCOME:

(a): Gross income includes (*see Attachment A for definition of "includes") gains, profits, and income derived from salaries, wages, or compensation for personal service ... " (Emphasis added).

The word "income" itself is not defined in either place. If no IR Code definition of “income” is available...

193, 80 L.Ed. 229 (1935).

A) Please provide documentation defining the IRS’s lawful definition of “income”, and certify this so that I may determine if I actually have any lawful “income” which requires the filing of a 1040 return.

B) Please provide documentation defining "unless excluded by law," i.e. what "law" is being referenced in Section 22 of the above code which would exclude "income" as defined in law, FROM taxation?

4. The United States Supreme Court states:

“We must reject in this case . . . the broad contention submitted in behalf of the Government that all receipts—everything that comes in—are income within the proper definition of the term ‘income’ . . .” Doyle v. Mitchell Brother, Co., 247 US 179 (1918)

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

“Gross income and not ‘gross receipts’ is the foundation of income tax liability . . . The general term ‘income’ is not defined in the Internal Revenue Code . . . ‘gross income’ means the total sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources. 575 There is a clear distinction between ‘profit’ and ‘wages’ or ‘compensation for labor.’ Compensation for labor cannot be regarded as profit within the meaning of the law... The word profit is a different thing altogether from mere compensation for labor . . . The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who performed the services . . . is without support either in the language of the Act or in the decisions of the courts construing it and is directly opposed to provisions of the Act and to Regulations of the Treasury Department . . .” U.S. v. Balard, 535, 575 F. 2D 400 (1976); (see also Oliver v. Halstead, 196 VA 992; 86 S.E. Rep. 2D 858)
“Income within the meaning of the Sixteenth Amendment and Revenue Act, means ‘gains’ . . . and in such connection ‘gain’ means profit . . . proceeding from property, severed from capital, however invested or employed and coming in, received or drawn by the taxpayer, for his separate use, benefit and disposal . . . Income is not a wage or compensation for any type of labor.” Staples v. U.S., 21 F Supp 737 U.S. Dist. Ct. ED PA, 1937].

“[The Pollock court] recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct tax was adapted to prevent, in which case the duty would arise to disregard the form and consider the substance alone and hence subject the tax to the regulation of apportionment.” Brushaber v. Union Pac. R.R. Co., 240 U.S. 1, 11, 12, 18 (1916) (Emphasis added).

“Excises are taxes laid upon:
“(1.) the manufacture, sale or consumption of commodities within the country,
“(2.) upon licenses to pursue certain occupations, and
“(3.) upon corporate privileges.”

“. . . [T]he requirement to pay such taxes involves the exercise of the privilege and if business is not done in the manner described no tax is payable.

“. . . [I]t is the privilege which is the subject of the tax and not the mere buying, selling or handling of goods.”
Flint, Supra at 151–152.

”[T]axation on income [is] in its nature an excise... " A unanimous United States Supreme Court in Brushaber v. Union Pacific R. Co., 240 U.S. 1, (1916).

"the requirement to pay [excise] taxes involves the exercise of privilege...”

"[Although the Legislature may declare as privileges and tax as such for State revenue purposes those pursuits and occupations that are not matters of common right], the Legislature has no power to declare as a privilege and tax for revenue purposes occupations that are of common right. "The right to engage in an employment, to carry on a business, or pursue an occupation or
profession not in itself hurtful or conducted in a manner injurious to the public, is a common right, which, under our Constitution, as construed by all our former decisions, can neither be prohibited nor hampered by laying a tax for State revenue on the occupation, employment, business or profession. ... Thousands of individuals in this State carry on their occupations as above defined who derive no income whatever therefrom. But, where an income is derived from any occupation, business, profession or employment, then the Legislature may lay thereon a tax..." Supreme Court - Sims v. Ahrens, 167 Ark. 557, 271 SW 720 594, 595 (Ark. 1925).

Case precedent recognizes no distinction between a privilege tax and an excise tax. See Bank of Commerce & Trust Co. v. Senter. 260 S. W. 144, 148 (Tenn. 1924). (Whether the tax be characterized in the statute as a privilege tax or an excise tax is but a choice of synonymous words, for an excise tax is an indirect or privilege tax.) American Airway's, Inc. v. Wallace, 57F.ld 871, 880 (M.D. Tenn. 1937) ("The terms 'excise' tax and privilege' tax are synonymous and the two are often used interchangeably."); see also 71 AM JUR. 2dState and Local Taxation §24, (The term 'excise tax' is synonymous with 'privilege tax, and the two have been used interchangeably. Whether a tax is characterized in the statute imposing it as a privilege tax or an excise tax is merely a choice of synonymous words, for an excise tax is a privilege tax.") Thus, the excise tax now before us is, by more complete description, purportedly an excise upon a particular privilege, assessed according to the quantity of substance possessed in enjoyment of such privilege. Waters, et al. v. Chumley No. E2006-0222S-COA-RV-CV. Court of Appeals of Tennessee.

Congressional testimony:

4420 "Mr. Heflin. ‘An income tax seeks to reach the unearned wealth of the country and to make it pay its share.’ 4423 Mr. Heflin. ‘But sir, when you tax a man on his income, it is because his property is productive. He pays out of his abundance because he has got the abundance.’” 45 Congressional Record, 4420, 4423 (1909).

3 "The right to follow any of the common occupations of life is an inalienable right, ..." and, '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'. Smith, Wealth of Nations, Bk. I, c. 10. "Butcher's Union Co. v. Crescent City Co., 111 U.S. 746 (1883) - "Included in the right of personal liberty and the right of private property- partaking of the nature of each- is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and other services are exchanged for money or other forms of property": Coppage v. Kansas, 236 U.S. 1 (1915).
Based on the above cases, please provide documentation proving that my right to work in my private capacity is lawfully being regarded as a “privilege, since it appears that the IRS is claiming “income” is being “derived” merely through my right to work and receiving a “wage, salary or compensation for services.” (i.e., that my wage, salary or compensation for services is actual “gains and profit”.

5. The Courts have stated:

"The Amendment, the [Supreme] court said, judged by the purpose for which it was passed, does not treat income taxes as direct taxes but simply removed the ground which led to their being considered as such in the Pollock case, namely, the source of the income. Therefore, they are again to be classified in the class of indirect taxes to which they by nature belong."
Cornell Law Quarterly, 1 Cornell L. Q. 298 (1915-16)

"In Brushaber v. Union Pacific Railroad Co., Mr. C. J. White, upholding the income tax imposed by the Tariff Act of 1913, construed the Amendment as a declaration that an income tax is "indirect," rather than as making an exception to the rule that direct taxes must be apportioned."
Harvard Law Review, 29 Harv. L. Rev. 536 (1915-16)

"If [a] tax is a direct one, it shall be apportioned according to the census or enumeration. If it is a duty, impost, or excise, it shall be uniform throughout the United States. Together, these classes include every form of tax appropriate to sovereignty. Whether the [income] tax is to be classified as an "excise" is in truth not of critical importance [for this analysis]. If not that, it is an "impost", or a "duty". A capitation or other "direct" tax it certainly is not." Steward Machine Co. v. Collector of Internal Revenue, 301 U.S. 548 (1937) (Emphasis added; citations omitted.)

"...in Springer v. U. S., 102 U.S. 586 , it was held that a tax upon gains, profits, and income was an excise or duty, and not a direct tax, within the meaning of the constitution, and that its imposition was not, therefore, unconstitutional." Pollock v. Farmer's Loan & Trust, 157 U.S. 429 (1895).

A) Please provide documentation showing what privilege or corporate activity I have engaged in to be liable for filing the 1040 form declaring my wages to be actual privileged gains, profit or income.

B) Please provide documentation defining the words "gains, profits, and income," and please provide the legal differences between these words and the words, "salaries, wages or compensation for service" as distinguished in Section 22.
C) Please provide documentation defining the words "derived from"; i.e. please provide lawful examples of how “income” is lawfully "derived from," wages, salary, or compensation for service.

6. The IRS claims that all wages, salary or compensation for service is lawful “income” but the above cases and Exhibit A evidence clearly counter that presumption. Am I to disregard U.S. Supreme Court cases, and Congressional Testimony, and follow IRS administrative code, or hearsay and presumption, especially where there is no lawful evidence in support of IRS claims and when they counter U.S. Supreme Court precedent?

"The statute and the statute alone determines what is income to be taxed." Edwards v. Keith, 231 F. 110 (2nd Cir. 1916).

I am unable to locate any “statute” which determines what the word "income" is, but quite a bit about what “income” is from court precedent and original intent of Congress. Please provide documentation showing IRS’s legal standing to be claiming I have lawful “income” in the way of my wages, salary or compensation for service, while not having a legal definition for “income”.

7. Taxpayer v nontaxpayer:

“The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws . . .” Long v. Rasmussen, 281 F. 236 (1922)

“. . . [P]ersons who are not taxpayers are not within the system and can not benefit by following the procedures prescribed for taxpayers . . .” Economy Plumbing & Heating v. U.S., 470 F2d. 585 (1972)

I.R.S. Code Sec 7701 (a) (14) states: “The term ‘taxpayer’ means any person subject to any Internal revenue tax.”

There must be some mechanism of law or involvement in some activity which would make me a lawful “taxpayer” by being made “liable” through the same, but I have no such documentation or evidence that I am “liable” and thus, a lawful “taxpayer”. Please provide documentation proving that I am a “taxpayer” required to pay an “income” tax, as compared to a “non-taxpayer” without corporate activity or a privileged activity or event.
8. Definitions

a) 26 USC § 3401(c) Employee

For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

Please provide documentation explaining how I am in any way categorized under this definition, and if not under this definition, documentation on what definition the IRS is using to create any liability for me as an “employee” under the “income” tax.

b) 26 U.S. Code § 3401(a) Wages

For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee [defined, for purposes of this chapter, as shown above]...

Please provide documentation as to what definition of “wages” the IRS is using to create any liability for me under the “income” tax regarding my personal wages, salary or compensation for services, since the above definition clearly does NOT apply to me personally.

26 U.S. Code § 7701 § 26 - Trade or business: “The term 'trade or business' includes(4) the performance of the functions of a public office.”

Please provide documentation showing how my activities in employment for a private company, or self-employed capacity, is defined as a “trade or business” subject to Title 26.

IR Code section (3121)(e) states: "United States: The term 'United States' when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

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4 "(I) To comprise, comprehend, or embrace: (1) To enclose within; contain; confine. But granting that the word 'including' is a term of enlargement, it is clear that it only performs that office by introducing the specific elements constituting the enlargement. It thus, and thus only enlarges the otherwise more limited, preceding general language... The word 'including' is obviously used in the sense of its synonyms comprising; comprehending; embracing?" Treasury Decision 3980, Vol. 29 January-December, 1927, pages 64 and 65.
Please provide documentation showing how this definition of “United States” applies to me in my private capacity since I do not live in any of those geographical jurisdictions, and thus am NOT within the defined “United States”.

26 CFR 39.21-1 (1956) states ... "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."

A) Please provide documentation defining the “statutes” and "fundamental law," as used in 26 CFR above, which exempts income from being taxed.

B) Please provide documentation with examples of “expenses incurred” as mentioned in the above section which would be “connected therewith” to these “statutes” and “fundamental law”, and how the “expenses” differ from “interest” which is to be included in “net income”.

26 CFR 39.22(b)-1 states ... "Exemption--Exclusions from gross income. Certain items of income specified in section 22(b) are exempt from tax and may be excluded from gross income. These items however, are exempt only to the extent and in the amount specified. No other items may be excluded from gross income except (a) those items of income which are under the Constitution, not taxable by the Federal government;"

Please provide documentation explaining the phrase ... "those items of income which are under the Constitution, not taxable by the Federal government;" i.e., what are some documented examples of these "items of income" which are "not taxable" under the Constitution?

9. 16th Amendment:

"The Sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects..."


"[T]he settled doctrine is that the Sixteenth Amendment confers no power upon Congress to define and tax as income without apportionment something which theretofore could not have been properly regarded as income."


"[T]he sole purpose of the Sixteenth Amendment was to remove the
apportionment requirement for whichever incomes were otherwise taxable. 45 Cong. Rec. 2245-2246 (1910); id. at 2539; see also Brushaber v. Union Pacific R. Co., 240 U. S. 1, 240 U. S. 17-18 (1916)

"The Supreme Court, in a decision written by Chief Justice White, first noted that the Sixteenth Amendment did not authorize any new type of tax, nor did it repeal or revoke the tax clauses of Article I of the Constitution, quoted above. Direct taxes were, notwithstanding the advent of the Sixteenth Amendment, still subject to the rule of apportionment..."

“The sixteenth amendment authorizes the taxation of income ‘from whatever source derived’ - thus taking investment income - "without apportionment among the several States ‘. The Supreme Court has held that the sixteenth amendment did not extend the taxing power of the United States to new or excepted subjects but merely removed the necessity which might otherwise exist for an apportionment among the States of taxes laid on income whether it be derived from one source or another. So the amendment made it possible to bring investment income within the scope of a general income-tax law, but did not change the character of the tax. It is still fundamentally an excise or duty with respect to the privilege of carrying on any activity or owning any property which produces income. The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of tax. Congressionai Record Volume 89, Part 2,

5 Brushaber v. Union Pacific Railroad Co. ((1916) 240 U. S. 1); William E. Peck and Co. v. Lowe ((1918 247 U. S. 165); Eisner v. Macomber, (1920) and 252 U. S. 189).

6 "PRIVILEGE: A particular benefit or advantage enjoyed by a person, company, or class beyond the common advantages of others citizens. An exceptional or extraordinary power of exemption. A particular right, advantage, exemption, power, franchise, or immunity held by a person or class, not generally possessed by others. " Black’s Law Dictionary, 6th Edition.

7 "Since the right to receive [commonly-defined] income or earnings is a right belonging to every person, this right cannot be taxed as privilege." Jack Cole Company v. Alfred T. MacFarland. Commissioner. 337 S.w.2d 453 (1960)

8 If the tax should be construed as a tax on income ‘as a specific fund the disappearance of the fund before the date of assessment would prevent the collection of the tax. Former Treasury
Please provide documentation explaining what authority the IRS is using to claim it can tax my wages under the 16th Amendment, given the clear Supreme Court cases above that the 16th Amendment does NOT create the authority for such taxation authority.

10. Please provide documentation declaring the enclosed "Exhibit A" case sites as not being legally valid, to also include overturned case law, or other relevant material which will refute this based on evidence in fact, and please include a signed statement by authorized IRS agent, with printed name, and under penalty of perjury, stating that all responses are true, correct and complete.

11. Please answer the following under penalty of perjury:

Does the IRS admit or deny that the enclosed Attachment A case precedent and discussion is the defining law on the word "income"?

Does the IRS admit or deny that it has the authority to define the word "income" outside case precedent and original Congressional intent, and the People's, intent?

Does the IRS admit or deny the words "gains, profits, and income" are the same lawfully defined thing as "salaries, wages or compensation for services"?

Does the IRS admit or deny that I am automatically made a “taxpayer” liable for “income” taxes without any mechanism of law or action?

Does the IRS admit or deny the defined words in the code are NOT limited by the clear wording of Title 26?

Does the IRS admit or deny it has the duty to respond to FOIA requests to clarify their own laws and claims when the public requests this?

Does the IRS admit or deny the 16th Amendment does NOT create the authority for an “income” tax on wages.

CONCLUSION

Based on the above documentation, I am making the following conclusions regarding myself and any lawful and Constitutional duties regarding “income” taxation and any relationship with the IRS:

1. My wages, salary or compensation for services are NOT lawful “gains,

Department legislative draftsman F. Morse Hubbard in testimony before Congress in 1943. (See also Fester and Abbott, op. cit., p. 85.)
profit or income” belong to a different activity type other than employment, which is a right that cannot be taxed according to the Congressional original intent, and the Supreme and other court precedent definitions.

2. I am NOT a “taxpayer” because there is no mechanism of law, OR privilege OR activity I am involved in that would make me a “taxpayer” as compared to a “nontaxpayer.”

3. There is NO IR Code section which makes me personally liable to file a 1040 or other tax return form.

4. That “income taxes” are indirect taxes subject to uniformity according to the Constitution, and are ONLY for those “made liable” through some taxable activity or privilege, and that my right to work cannot be taxed as a privilege.

I look forward to receiving the requested documentation, within the lawful time allotted\(^9\), so I may better understand the laws and how to lawfully comply with all applicable laws that apply to me personally, and that my Constitutional and Civil rights are not being violated and that the law is being upheld correctly.

If I do not receive a response, and rebuttal, to each and every question and claim made, within 20 days, or additional time, if necessary, this will be prima facie evidence that the original intent of the Courts and Congress as specified herein are true and correct.

I am also NOTICING the IRS that I rescind my signature from any and all documents ever signed and provided to the IRS or any government agency, under false presumptions and lack of full disclosure, regarding my believed legal liability to file any 1040 form or for any perceived liability for taxes on my wages, salary or compensation for services, which I now KNOW is not lawful income, and never was.

Sincerely,

____________________________________
Name
address

CC: (Specific IRS-agent/officer, if any. You could also send a copy to your state

\(^9\) Agencies are required to respond to a FOIA request within 20 business days, excluding Saturdays, Sundays, and legal holidays. For the Privacy Act, the time limit is 10 business days. This period does not begin until the request is actually received by the FOIA office.

In specific situations, an additional 10-day extension may be granted in responding to a request. The FOIA provides for extensions of initial time limits under unusual circumstances, which are defined as 1) the need to search for and collect records from separate offices; 2) the need to examine a voluminous amount of records required by the request; and 3) the need to consult with another agency within 20 working days of receiving it.
senators and reps as well, for legal notice under 18 U.S.C.)

Notary Witness

I declare under penalty of perjury that (Your name) appeared before me with picture identification, and acknowledged this 12 (???) page document addressed to the IRS under FOIA for legal answers to IR Code and taxation issues, with Certified mail # ????, on (Date).

___________________________________
Printed name

___________________________________
Signature SEAL