

From:

Date: June _____, 2018

Secretary of the Treasury of the United States
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Commissioner of Internal Revenue
1111 Constitution Avenue NW
Washington, D. C. 20224

IRS Office _____

Sirs,

In the once decided *Kuglin* case in Tennessee (*USA v. Kuglin*, WD Tennessee, #03-CR-20111, August, 2003), the jury acquitted Ms. Vernice Kuglin of several criminal charges of “tax evasion”, for not filing 1040’s and filing “false W-4’s” with her employer, FedEx. Ms. Kuglin’s defense was elegantly simple. She had repeatedly requested evidence from the IRS of the ***taxing statute or statutes***-- which is to say the laws that imposed a tax on her, her property, or her activities, and they had failed or refused to produce it. According to the Constitution, Congress may lay direct taxes only upon States, to be collected according to the rule of apportionment. That rule requires the government to determine the total amount of the tax, and divide the amount amongst the States according to their respective shares of the nation’s population.

All other taxes, whether called excises, or duties, or imposts, must be indirect, and administered according to the rule of uniformity. Indirect taxes are those paid by “taxpayers” who can pass the cost of the tax along to the ultimate consumer. For example, taxes on the manufacture of certain weapons, or liquor, or tobacco products, are paid by the manufacturer, who can pass the cost along to their distributors or wholesalers, to be paid ultimately by the consumer, at the liquor store or tobacco store. Common to all such taxes, is a license to engage in such activities. Thus, Congress may punish a licensee for failing to pay a tax on a barrel of whiskey, but it cannot punish a consumer for failing to pay the tax at the liquor store. The consumer has no choice—the tax is

included in the retail price of his purchase. The licensee has a choice— he can choose to sell his goods without paying the tax, but since he does not have to dig into his pockets in order to pay the tax, it would be foolish for him to do so, as well as illegal.

Congress cannot tax income directly, and so it has never enacted any law that imposes a tax directly on income. It has, however, imposed an indirect tax on certain corporations, measured by the income produced by the licensed activity.

The failure to produce the taxing Statute was fatal to the government's case against Ms. Kuglin. Thus, because the government could not produce the law they claimed she was violating, the jury had to find her innocent. Because the government failed to produce the taxing statute, "it didn't fit; they had to acquit." The case brings to light the right of the public to ***full disclosure*** and ***proper application*** of the law. In a previous, similar case, *USA v. Lloyd Long*, also in Tennessee, Eastern District- No. CR-1-93-91 October 12, 1993, the jury reached a similar verdict for the same reason. The IRS could not produce the taxing statute on request. Earlier, a man named Cheek argued that his ***belief*** that the tax laws did not apply to him exculpated him from "willful" evasion of the tax laws, and the Supreme Court agreed with him. *Cheek v. United States*, 498 U.S. 192 (1991). Like Mr. Cheek, I have come to *believe* that there are no federal tax laws that apply to me, since in those three cases the government failed to produce the taxing statute.

Common sense tells me that if the government cannot get a conviction for willful violations of the tax laws because the government cannot produce the taxing Statute, the best defense a citizen can have is a request for the taxing Statute that has not been furnished on request. I hereby request a copy of the taxing statute— the unrepealed law published in the United States Statutes at Large that lays a tax on me, my property, or my activities.

I suspect that the government is trying to collect the same "tax" from me as it was in the above cases- the tax it could not produce for Mr. Cheek, Mr. Long, or Ms. Kuglin. My choice of "Statute" rather than Code Section or "Law" is deliberate. The Statute refers to the Volume and Page of the United States Statutes at Large where the Act of

Congress that imposed a tax, in the nature of an income tax, on me, my property, or my activities, and not a Code Section or Regulation prescribed by an Administrator.

Section 38 of the Payne-Aldrich *Tariff* Act of 1909, 36 Stat 92, was a *taxing statute*. One of its stated purposes was to reduce *tariffs*, so we know it involved the regulation of *international commerce*, and was not specifically a Bill to raise revenue. Section 38 later became known as the *Corporation Excise Tax*. It says “there shall be levied, assessed, collected, and paid annually, a *special excise* tax on *certain* corporations, joint-stock companies, and insurance companies.” The tax was not *on* the *income*, but *on* “the *privilege* of doing business” as artificial entities, and said to be “measured by” the income. The rate amounted to 1-1/2 % of net profit in excess of \$5,000. In 1909, \$5,000 would buy 10 new Ford cars or a nice home, while the average worker was earning perhaps \$500 per year. It was hailed as a “soak the rich” tax.

Payne-Aldrich shows us what to look for as *elements* of a taxing statute: it outlines a five-step taxing *procedure*- levying, assessing, collecting, paying, and receiving. It states that the tax is in the *nature* of a “*special excise* tax *on the privilege* of doing business” as an artificial entity. It *identifies* the *taxpayers*, as “*certain*” artificial entities, which puts the burden on the government to identify the taxpayers and leave others alone. It says that the “measure” of the tax is the *net profit* of those “certain” businesses, in excess of a sum certain. It is cited as 36 Stat. 92. Common to the *entities* enumerated, is the fact that they need *licenses* in order to *exist*, let alone do business. *The people* do not need federal licenses to exist or do business. It is logical to presume that the authority to *license* is inherent in the authority to impose the *tax*, and that “taxes” may be imposed as a condition of the license. By the issuance of a license, certain “contractual” conditions are imposed by the licensing authority, which do not apply to those who do not have or need such licenses. Thus, the “special” nature of the *excise* tax is clear. Also, by making it an excise, the tax must be *indirect*, so it can be passed on to the consumer. There is no way a “wage tax” can be passed on to anyone, so wage taxes are direct taxes, not excises.

Thus, a proper response to my request for taxing statute(s) must provide the cite, and such of the content of the law that identifies the *nature* of the tax, the general *procedure* for applying it, who are *taxpayers*, what the tax is *on*, and how it is to be *measured*, and

whether a license is required for the activity. If the tax is, as was Payne-Aldrich, to be “levied, assessed, collected and paid”, then those who levy, those who assess, those who collect, those who pay, and those who receive, must be identified officials, as were the levying officers, assessors, and collectors in Payne-Aldrich. There appear to be no “assessors” or “collectors” in the IRS at this time.

Title 1 USC Section 204 says that the Code *represents* provisions *excerpted* from the United States Statutes at Large, which, in turn, represent the laws. Its legitimate purpose is to enable the reader to locate the Statute(s) from which a code provision is taken. The *laws* are documents signed by Presidents, stored at the Capitol. In order to read “the law” one needs to go to Washington. In order to read a faithful representation of the law, one needs only to go to his local law library and read the Statutes. In order to locate the Statutes, one may generally rely on the *Code*, which is organized by subject matter. According to 1 USC 204, the Code represents Statutes that are currently in force:

Sec. 204. - Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements

In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States -

(a) United States Code. -

The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish *prima facie* the laws of the United States, *general and permanent* in their nature, *in force* on the day preceding the commencement of the session following the last session the legislation of which is included: Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

The Act of February 10th 1939, at 53 Stat 1 severed the connection between the Code and “the laws in force”. It was, and still is, a *Code of Laws No Longer In Force!!!* Thus, a taxing statute enacted some time after February 10th of 1939 would have to be the current taxing statute. There are no “internal revenue laws” enacted after that date, which casts doubt on the efficacy of the so-called Code of 1954. The Stated purpose of the Act that created that Code was “an act to revise the internal revenue laws”, which, like its predecessor of 1939, was not intended as an enactment of any new laws. Ordinarily,

Congress “amends” or “repeals” laws; it does not “revise” them. Thus, the very nature of the Code of 1954 is unclear.

What laws did it revise? They are not to be found, because the Code of 1954 cites *itself* as its source. The Act of 1939 includes several tables of Statutes affected by the repeal. The Act of 1954 does not refer to a single Statute that it “revised”. **Codes** of Laws cannot be the **Laws** they **Codify**! Therefore, the taxing statute(s) would have had to be enacted between 1939 and 1954 in order for the 1954 Code to have revised it or them. My demand is for a taxing statute enacted after the repeal of 1939. In the most likely event that you cannot produce it, I shall be at liberty to conclude that I am not a “taxpayer”, and am not required to respond to IRS mail that refers to me as a “taxpayer”.

If I am not a taxpayer, I do not expect that the government can file criminal complaints against me for failing to comply with an unknown law that applies to taxpayers. Further attempts to coerce me into paying this unidentified tax, by sending me letters in the mail, open the door for me to file suits against the senders for mail fraud and other violations of the United States Code.

Thank you for your prompt attention to this important matter.

_____ Date _____, 2018