To IRS agent:

Dear Agent X:

Below you will find an Inquiry on the Constitutional authorization of the income tax, and it's proper application. Please note that you are a fiduciary to the public and any refusal to answer these questions is fraud as stated in the Inquiry.

Please return your answers within 10 days or notify me as to any delay. Please notify your supervisor that this request is of utmost importance, since there seems to be a vast misunderstanding of the income tax laws and serious issues of criminal activities.

Please make copies of this Inquiry and have the Operations Managers answer these questions also.

1) Dennis Parizek; Ogden Utah Operations Manager, IRS ACS,

2) Thomas Matthews, Ogden Utah Operations Manager, IRS ACS,

3) Scott B. Prentky, Ogden Compliance Center, IRS ACS,

4) Regina Owens; Cincinnati Operations Manager, IRS ACS,

5) C. Sherwood, Director, Payment Compliance, Cincinnati, Ohio 45999

6) Larry Leder; Holtsville, N.Y. Operations Manager, IRS ACS,

7) Timothy Towns; Ogden Utah Operations Manager, IRS ACS,

8) Jeffrey Eppler; Kansas City Operations Manager, IRS ACS,

9) Dan Myers; Cincinnati Operations Manager, IRS ACS,

10) Denise Bradley; Kansas City Operations Manager, IRS ACS,

11) Stephen P. Warner; Kansas City Operations Manager, IRS ACS, and

12) Susan Meredith; Fresno Operations Manager/Kansas City Operations Manager, IRS ACS.

13) R. Job (R. Johnson); Fresno Operations Manager, IRS ACS.

14) Mark Everson, Commissioner of Internal Revenue, Washington, D.C.

I cannot accept a standard form letter from you since these form letters contain statements that are calculated to deceive and mislead. Circle the correct answer and return the answers to me within 10 working days.

You and the Operations Managers shall be referred to as respondents in this Inquiry. Your authority to occupy your Office, depends on your willingness to uphold the

Constitution and the laws of the United States. If you send out documents that are deceptive and misleading on the matters of the proper application of the “income tax”, that will be considered as fraud.

I reserve the right to challenge any of your answers and expect you to act in good faith and honesty.

(Note: This document is intended to clarify the Supreme Court rulings on the effect of the 16th Amendment and the Constitutional definition of the word “income” as used in the Internal Revenue Code and in the 16th Amendment, among other issues.)

Inquiry

1. Does each respondent consider himself a competent individual, with Oath of Office on file and capable of carrying out his duties of Office, and not impaired by use of drugs, alcohol, or any other disability?? Yes/No.
2. Is each respondent aware that he is a fiduciary to the public as stated in the following case? Yes/ No.

   McNally v. U.S., 483 U.S. 350, 371-372 (1987), Quoting U.S. v Holzer, 816 F.2d. 304, 307: “"Fraud in its elementary common law sense of deceit - and this is one of the meanings that fraud bears in the statute, see United States v. Dial, 757 F.2d 163, 168 (7th Cir. 1985) - includes the deliberate concealment of material information in a setting of fiduciary obligation. <u>A public official is a fiduciary toward the public</u>, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them he is guilty of fraud. When a judge is busily soliciting loans from counsel to one party, and not telling the opposing counsel (let alone the public), he is concealing material information in violation of his fiduciary obligations.”

3. Is each respondent aware that he is obligated by law to make known material information to the general public when asked? Yes/ No.
4. Is each respondent aware of the issues of fraud that are present in any fiduciary setting? Yes/No.
5. Are respondents aware of the general definition of fraud? Yes/No.

   Fraud: ***Deceit, deception, artifice, or trickery operating prejudicially on the rights of another, and so intended, by inducing him to part with property or surrender some legal right. 23 Am J2d Fraud § 2. <u>Anything calculated to deceive another to his prejudice and accomplishing the purpose, whether it be an act, a word, silence, the suppression of the truth, or other device contrary to the plain rules of common honesty</u>. 23 Am J2d Fraud § 2. An affirmation of a fact rather than a promise or statement of intent to do something in the future. Miller v Sutliff, 241 111 521, 89 NE 651.***
6. Prior to this, has each respondent read and understood the Supreme Court rulings that apply to the definition of the word "income" and the use of the word in the 16th Amendment? Yes/No.
7. Is each respondent aware that lower courts do not have the power to overturn Supreme Court rulings? Yes/ No.
8. Are respondents aware that unpublished decisions may not be used in cases as precedence law? Yes/ No.
9. (a) In light of the following Supreme Court rulings, do respondents agree that there was no new taxing power provided to the federal government by the 16th Amendment? Yes/No.

   BRUSHABER v UNION PACIFIC R. CO., 240 US 1, 12 (1916):

"… the contentions under it (the 16th Amendment), if acceded to, would cause one provision of the Constitution to destroy another; that is, they would result in bringing the provisions of the Amendment exempting a direct tax from apportionment into irreconcilable conflict with the general requirement that all direct taxes be apportioned. … This result, instead of simplifying the situation and making clear the limitations on the taxing power … would create radical and destructive changes in our constitutional system and multiply confusion."

EVANS v GORE, 253 US 245, 263 (1920):

"Does the Sixteenth Amendment authorize and support this tax and the attendant diminution; that is to say, does it bring within the taxing powers subjects theretofore excepted? The court below answered in the negative; and counsel for the government say: '<u>It is not, in view of recent decisions, contended that this amendment rendered anything taxable as income that was not so taxable before</u>'."

(b) Do respondents agree with the government's statement that ***<u>It is not, in view of recent decisions, contended that this amendment rendered anything taxable as income that was not so taxable before</u>.***

BOWERS v. KERBAUGH-EMPIRE CO., 271 U.S. 170, 174 (1926):

"The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on <u>income</u>, 'from whatever source derived' without apportionment among the several states, and without regard to any census or enumeration. <u>It was not the purpose or effect of that amendment to bring any new subject within the taxing power</u>."

(c) Do respondents agree that the above two rulings were made in accordance with the definition of "income" in its constitutional sense? Yes/No.

STANTON v BALTIC MINING CO., 240 US 103, 112-114 (1916):

"Not being within the authority of the 16th Amendment, the tax is therefore, within the ruling of Pollock… a direct tax and void for want of compliance with the regulation of apportionment."

"…it manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation.."

BRUSHABER v UNION PACIFIC R. CO., 240 US 1, 11-12 (1916):

"…the confusion is not inherent, but rather arises from the conclusion that the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes. And the far-reaching effect of this <u>erroneous</u> assumption will be made clear by generalizing the many contentions advanced in argument to support it…"

"…the whole purpose of the Amendment was to relieve all income taxes <u>when imposed from apportionment</u> from a consideration of the source…"

"…on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation."

TAFT v. BOWERS, 278 U.S. 470, 481 (1929):

"Under former decisions here <u>the 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.</u>"

PECK v LOWE, 247 US 165, 172 (1918):

"As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects…"

EISNER v MACOMBER, 252 US 189, 205-207 (1920):

"The 16th Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted."

"As repeatedly held, this did not extend the taxing power to new subjects…"

MERCHANTS' LOAN & TRUST CO. v SMIETANKA, 255 US 509, 519 (1921):

"It is obvious that these decisions in principle rule the case at bar <u>if the word 'income'</u> has the same meaning in the Income Tax Act of 1913 that it had in the Corporation Excise Tax Act of 1909, and <u>that it has the same scope of meaning was in effect decided in Southern Pacific v Lowe</u>…, where it was assumed for the purpose of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When we add to this, Eisner v Macomber…the definition of '<u>income</u>' which was applied was adopted from Stratton's Independence v Howbert, supra, arising under the Corporation Excise Tax Act of 1909… <u>there would seem to be no room to doubt that the word 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</u>, and that what that meaning is has now become definitely settled by decisions of this Court."

(d) Do respondents agree that the meaning of the word "income" was settled by decisions of the Supreme Court, and ruled as only applicable to excise tax? Yes/ No.

(e) In light of the above rulings listed in paragraph 11, do respondents agree that there were no new subjects brought under the taxing powers of the federal government by the 16th Amendment? Yes/No.

(f) In light of the above rulings listed in paragraph 11, do respondents agree that the same taxing powers of the federal government existed after the passage of 16th Amendment, as existed before the passage of the 16th Amendment? Yes/No.

(g) In light of the above rulings listed in paragraph 11, do respondents agree that the 16th Amendment did not eliminate the requirement of "apportionment" for direct taxes in the Constitution? Yes/No.

Article 1, sec. 2,"Representatives and <u>direct taxes shall be apportioned</u> among the several States which may be included in this union, according to their respective Numbers…" and also in Article 1, sec. 9, "<u>No Capitation, or other direct, Tax shall be laid, unless in proportion to the Census</u> or Enumeration herein before directed to be taken."

(h) Do respondents agree that the Constitution contains a prohibition against direct un-apportioned taxes? Yes/No.

(i) In light of the above rulings listed in paragraph 11, do respondents agree that the literature put out by the IRS, is false and/or misleading in claiming that the 16th Amendment authorized a taxing power on every citizen? Yes/No.

(j) Do respondents agree that the 16th Amendment authorized no new taxing powers? Yes/No.

10. (a) Are respondents aware of the ruling of Pollock, which stated the original intention of the Founders in the Constitution? Yes/No.

(b) Do respondents agree that the original intent (as cited in this paragraph) of the Founders, has not been overturned or abrogated by the 16th Amendment or any other authority? Yes/No.

"Nothing can be clearer than that what the constitution intended to guard against was the exercise by the general government of the power of directly taxing persons and property within any state through a majority made up from the other states." **Pollock vs. Farmers' Loan and Trust Co., 157 US 429, 582 (1895).**

11. Do respondents agree that the work of the laborer (the laborer's most sacred property) could not be hindered or encroached upon before the passage of the 16th Amendment? Yes/No.

"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, <u>is a plain violation of this most sacred property</u>. It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him." **Butcher's Union Co. v. Cresent City Co., 111 US 746, 757 (1884).**

12. (a) Do respondents agree that after the passage of the 16th Amendment, the right to conduct a lawful business or vocation and thereby acquire profits, is the property of the business? Yes/No.

"The court held it unconstitutional, saying: <u>'The right to follow any lawful vocation and to make contracts is as completely within the protection of the Constitution</u> as the right to hold property free from unwarranted seizure, or the liberty to go when and where one will. One of the ways of obtaining property is by contract. The right, therefore, to contract cannot be infringed by the legislature without violating the letter and spirit of the Constitution. <u>Every</u>

citizen is protected in his right to work where and for whom he will. He may select not only his employer, but also his associates." **COPPAGE v. STATE OF KANSAS, 236 U.S. 1, 23 -24 (1915).**

"That the right to conduct a lawful business, and thereby acquire pecuniary profits, is property, is indisputable." TRUAX v. CORRIGAN, 257 U.S. 312, 348 (1921).

(b) Do respondents agree that it is a right of every citizen or business to conduct business without let or hindrance, and the 16th Amendment did not change that? Yes/No.

(c) Do respondents agree that ***The right to follow any lawful vocation and to make contracts is as completely within the protection of the Constitution***, and that the 16th Amendment did not change that? Yes/No.

(d) Do respondents agree that, "***The right, therefore, to contract cannot be infringed by the legislature without violating the letter and spirit of the Constitution."*** Yes/No.

13. Do respondents agree that the hindrance of any person in his lawful trade or business was declared void before the passage of the 16th Amendment, and the 16th Amendment did not change that? Yes/No.

"… using of anything whereby any person or persons, bodies politic or corporate, are sought to be restrained of any freedom or liberty they had before or hindered in their lawful trade,' All grants of this kind are void at common law, because they destroy the freedom of trade, discourage labor and industry,

restrain persons from getting an honest livelihood, and put it in the power of the grantees to enhance the price of commodities. <u>They are void because they interfere with the liberty of the individual to pursue a lawful trade or employment</u>." Butcher's Union Co. v. Cresent City Co., 111 US 746, 756 (1884).

14. (a) Do respondents agree with the Supreme Court ruling of 1923, 10 years after the 16th Amendment was passed, that ***<u>the right of the individual to contract,</u> <u>to engage in any of the common occupations of life</u>*** is guaranteed by the Constitution? Yes/No.

    MEYER v. STATE OF NEBRASKA, 262 U.S. 390, 399 (1923): "While this court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. <u>Without doubt, it denotes</u> not merely freedom from bodily restraint but also <u>the right of the individual to contract,</u> <u>to engage in any of the common occupations of life</u>, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men."

    (b) Do respondents agree that an individual has the freedom and the right to contract and engage in the common occupations of life, and that a state may not impose a charge for such rights? Yes/No.

"A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution." MURDOCK v. COMMONWEALTH OF PENNSYLVANIA, 319 US 105, at 113; 63 S Ct at 875; 87 L Ed at 1298 (1943).

(c) Do respondents agree that **Meyer vs. Kansas,** 10 years after the passage of the 16th Amendment, cited all the following cases as precedence to support its ruling? Yes/No.

Slaughter-House Cases, 16 Wall. 36; Butchers' Union Co. v. Crescent City Co ., 111 U.S. 746 , 4 Sup. Ct. 652; Yick Wo v. Hopkins, 118 U.S. 356 , 6 Sup. Ct. 1064; Minnesota v. Bar er, 136 U.S. 313 , 10 Sup. Ct. 862; Allegeyer v. Louisiana, 165 U.S. 578 , 17 Sup. Ct. 427; Lochner v. New York, 198 U.S. 45 , 25 Sup. Ct. 539, 3 Ann. Cas. 1133; Twining v. New Jersey 211 U.S. 78 , 29 Sup. Ct. 14; Chicago, B. & Q. R. R. v. McGuire, 219 U.S. 549 , 31 Sup. Ct. 259; Truax v. Raich, 239 U.S. 33 , 36 Sup. Ct. 7, L. R. A. 1916D, 545, Ann. Cas. 1917B, 283; Adams v. Tanner, 224 U.S. 590 , 37 Sup. Ct. 662, L. R. A. 1917F, 1163, Ann. Cas. 1917D, 973; New York Life Ins. Co. v. Dodge, 246 U.S. 357 , 38 Sup. Ct. 337, Ann. Cas. 1918E, 593; Truax v. Corrigan, 257 U.S. 312 , 42 Sup. Ct. 124; Adkins v. Children's Hospital (April 9, 1923), 261 U.S. 525 , 43 Sup. Ct. 394, 67 L. Ed. --; Wyeth v. Cambridge Board of Health, 200 Mass. 474, 86 N. E. 925, 128 Am. St. Rep. 439, 23 L. R. A. (N. S.) 147." **MEYER v. STATE OF NEBRASKA, 262 U.S. 390, 399 (1923).**

(d) Do respondents agree that the Constitution ***must be interpreted in the light of the common law, the principles and history of which were familiarly known to the framers of the constitution.***? Yes/No.

"The constitution nowhere defines the meaning of these words, either by way of inclusion or of exclusion, except in so far as this is done by the affirmative

declaration that 'all persons born r naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States.' Amend. art. 14. In this, as in other respects, <u>it must be interpreted in the light of the common law, the principles and history of which were familiarly known to the framers of the constitution.</u> Minor v. Happersett, 21 Wall. 162; Ex parte Wilson, <u>114 U.S. 417, 422</u> , 5 S. Sup. Ct. 935; Boyd v. U. S., <u>116 U.S. 616, 624</u> , 625 S., 6 Sup. Ct. 524; Smith v. Alabama, <u>124 U.S. 465</u> , 8 Sup. Ct. 564. The language of the constitution, as has been well said, <u>could not be understood without reference to the common law</u>. 1 Kent, Comm. 336; Bradley, J., in Moore v. U. S., <u>91 U.S. 270</u> , 274. [169 U.S. 649, 655], U.S. v. Wong Kim Ark, 169 U.S. 649, 654 (1898).

15. Do respondents disagree with the following law cites? Yes/No.

Taxation Key, West 53 – "The legislature cannot name something to be a taxable privilege unless it is first a privilege."

Taxation Key, West 933 – "The Right to receive income or earnings is a right belonging to every person and realization and receipts of income is therefore not a "privilege that can be taxed".

16. (a) Do respondents disagree with the Code of Federal Regulations definitions of direct and indirect taxes in 19 CFR 351.102? Yes/No.

Direct tax. ``Direct tax'' means a tax on wages, profits, interests, rents, royalties, and all other forms of income, a tax on the ownership of real property, or a social welfare charge.

Indirect tax. ``Indirect tax'' means a sales, excise, turnover, value added, franchise, stamp, transfer, inventory, or equipment tax, a border tax, or any other tax other than a direct tax or an import charge.

(b) Do respondents agree that the definition of "direct taxes" as ruled by **Knowlton vs. Moore**, still applies today? Yes/No.

Knowlton v. Moore, 178 US 41, 47 (1900): **"Direct Taxes bear upon persons, upon possession and the enjoyment of rights"**.

(c) Do respondents agree with the following ruling, and that such ruling is still applicable today? Yes/No.

FLINT v STONE TRACY, 220 US 107, 151 - 152 (1911):

"Duties and imposts are terms commonly applied to levies made by governments on the importation or exportation of commodities. <u>Excises</u> are 'taxes laid upon the <u>manufacture, sale, or consumption of commodities</u> within the country, upon <u>licenses</u> to pursue certain occupations, and upon <u>corporate privileges</u>.' Cooley, Const. Lim. 7th ed. 680."

(d) Do respondents know of any legal definitions of excise taxes that would expand the definition of excise taxes beyond those in this paragraph? Yes/No.

17. (a) Do respondents agree that private firms and individuals do not enjoy the same privilege that corporations enjoy? See **FLINT v. STONE TRACY CO** below. Yes/No.

(b) Do respondents agree that that there is a substantial difference in the "carrying on of business" by corporations, which are taxed for the corporate privilege, and the same "carrying on of business" by an unincorporated firm or individual? Yes/No.

"In the case at bar we have already discussed <u>the limitations which the Constitution imposes upon the right to levy excise taxes</u>, and <u>it could not be said</u>, even if the principles of the 14th Amendment were applicable to the present case, <u>that there is no substantial difference between the carrying on of business by the corporations taxed, and the same business when conducted by a private firm or individual</u>. The thing taxed is not the mere dealing in merchandise, in which the actual transactions may be the same, whether conducted by individuals or corporations, but the tax is laid upon the privileges which exist in conducting business with the advantages which inhere in the corporate capacity of those taxed, and <u>which are not enjoyed by private firms or individuals.</u>" **FLINT v. STONE TRACY CO., 220 U.S. 107, 162 (1911).**

18. (a) Are respondents aware of the two great classes of taxation (direct and indirect) ruling in Pollack and later affirmed in Brushaber? Yes/No.

"Thus, in the matter of taxation, the constitution recognizes the two great classes of direct and indirect taxes, and lays down two rules by which their imposition must be governed, namely, the rule of apportionment as to direct taxes, and the rule of uniformity as to duties, imposts, and excises." Pollock, 157 US 429, 556 (1895).

BRUSHABER v UNION PACIFIC R. CO., 240 US 1, 12 (1916),
"The court, fully recognizing in the passage which we have previously quoted the all embracing character of the two great classifications, including, <u>on the one hand, direct taxes subject to apportionment, and on the other, excises,</u>

***<u>duties, and imposts subject to uniformity</u>*, held the law to be unconstitutional in substance for these reasons: *<u>Concluding that the classification of direct was adopted for the purpose of rendering it impossible to burden by taxation accumulations of property, real or personal, except subject to the regulation of apportionment</u>*,…”**

(b) Do respondents agree that the two great classes of taxation are all embracing and that there does not exist any other class of taxation applicable to constitutional federal taxing powers? Yes/No.

(c) Do respondents agree that all direct taxes still had to be apportioned after the passage of the 16^{th} Amendment? Yes/No.

(d) Do respondents agree that no direct taxes have been imposed on the general citizenry for at least 90 years? Yes/No.

(e) Do respondents agree that the adoption of classification of “direct taxes”, by the Founders, was the original intent of the Founders? Yes/ No.

(f) Do respondents agree that the purpose of the adoption of the classification of “direct taxes” (original intent) by the Founders, was to render the accumulations of property, i.e., wages, salaries, and property, impossible to tax by the federal government, except by apportionment? Yes/No.

(g) Do respondents agree that Stratton’s ruled that property, considered by itself, was not taxable? Yes/No.

STRATTON'S INDEPENDENCE, LTD. v. HOWBERT, 231 U.S. 399, 417 (1913):

"Evidently Congress adopted <u>the income as the measure of the tax to be imposed with respect to the doing of business in corporate form</u> because it desired that the excise should be imposed, approximately at least, with regard to the amount of benefit presumably derived by such corporations from the current operations of the government. In Flint v. Stone Tracy Co. 220 U.S. 107, 165 , 55 S. L. ed. 107, 419, 31 Sup. Ct. Rep. 342, Ann. Cas. 1912 B. 1312, it was held that Congress, in exercising the right to tax a legitimate subject of taxation as a franchise [231 U.S. 399, 417] or privilege, was not debarred by the Constitution from measuring the taxation by the total income, although derived in part from <u>property which, considered by itself, was not taxable</u>."

(h) Do respondents agree that the 16th Amendment did not grant additional federal taxing powers that would change the "apportionment provision" of the Constitution? Yes/ No.

19. Are respondents aware of the purpose of the 16th Amendment? Yes/No.

BRUSHABER v UNION PACIFIC R. CO., 240 US 1, 12, 18 (1916):

"…the whole purpose of the Amendment was to relieve all income taxes <u>when imposed from apportionment</u> from a consideration of the source…"

20. (a) Are respondents aware that the 1954 House Discussion on Code section 61(a) of the 1954 Internal Revenue Code states the following? Yes/No.

"This definition is based upon the 16th Amendment and the word 'income' is used in its constitutional sense." "This section corresponds to section 22 (a) of the 1939 Code."

(b) Do respondents agree that the 16th Amendment's use of the word "income" only has significance in its constitutional sense? Yes/No.

(c) Do respondents agree that the word "income" in the Internal Revenue Code is used in its constitutional sense? Yes/No.

21. Do respondents agree that Congress cannot define the word "income" and pass such definition into law? Yes/No.

EISNER v MACOMBER, 252 US 189, 205 - 206 (1920):

"In order, therefore, that the clauses cited from article 1 of the Constitution may have proper force and effect, save only as modified by the amendment, and that the latter also may have proper effect, it becomes essential to distinguish between what is and what is not 'income,' as the term is there used, and to apply the distinction, as cases arise, according to truth and substance, without regard to form. Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised."

22. (a) Do respondents agree that there is a distinction between "Gross Income" and "Gross Receipts"? Yes/No.

(b) Do respondents agree that "gross income" is defined as ***"… '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."?***

(c) Do respondents agree that "Gross receipts" are not the foundation for income tax liability? Yes/No.

(d) Do respondents agree that the general term "income" is not defined in the Internal Revenue Code? Yes/No.

U.S. v. BALLARD, 535 F2d 400 (1976): "Gross income and not 'gross receipts' is the foundation of income tax liability…"

At 404, *"The general term 'income' is not defined in the Internal Revenue Code."*

At 404, BALLARD further ruled that *"… '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."*

(e) Do respondents agree that, ***"… '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."*** <u>and nothing else</u>? Yes/No.

23. (a) Are respondents aware of the definition of the word "income", as defined by the Supreme Court? Yes/No

MERCHANTS' LOAN & TRUST CO. v SMIETANKA, 255 US 509, 519 (1921):

"The Corporation Excise Tax Act of August 5, 1909, was not an income tax law, but a definition of the word 'income' was so necessary in its administration…"

"It is obvious that these decisions in principle rule the case at bar if the word '<u>income</u>' 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 v Lowe…, where it was assumed for the purpose of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that

the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When we add to this, Eisner v Macomber…the definition of 'income' which was applied was adopted from Stratton's Independence v Howbert, supra, arising under the Corporation Excise Tax Act of 1909… there would seem to be no room to doubt that the word 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."

DOYLE v. MITCHELL BROS. CO., 247 U.S. 179, 183 (1918):

"An examination of these and other provisions of the Act (Corporation Excise Tax Act of August 5, 1909) make it plain that the legislative purpose was not to tax property as such, or the mere conversion of property, but to tax the conduct of the business of corporations organized for profit upon the gainful returns from their business operations."

DOYLE v. MITCHELL BROS. CO. , 247 U.S. 179, 185 (1918):

"Whatever difficulty there may be about a precise and scientific definition of 'income,' it imports, as used here, something entirely distinct from principal or capital either as a subject of taxation or as a measure of the tax; conveying rather the idea of gain or increase arising from corporate activities."

(b) Do the respondents agree that all the income tax acts of Congress must be given the same meaning as was given to the word "income" that was given in the Corporation Excise Tax Act of 1909? Yes/No.

(c) Do respondents agree that the word "income" used in all the income tax acts have the same meaning as for an excise tax? Yes/No.

(d) Do respondents agree that the "conversion of property" includes the conversion of a man's labor (his most sacred property) given in exchange for wages or compensation (property)? Yes/ No.

24. (a) Do respondents agree that income is necessarily the product of the joint efforts of the state and the recipient? Yes/No.

"<u>Income is necessarily the product of the joint efforts of the state and the recipient of the income</u>, the state furnishing the protection necessary to enable the recipient to produce, receive, and enjoy it, and a tax thereon in the last analysis is simply a portion cut from the income and appropriated by the state as its share…" Sims v. Ahrens et al., 271 SW Reporter at 730.

(b) Do respondents agree that the privilege of incorporation is a benefit bestowed by the State, providing the protections to the recipient of the income? Yes/No.

25. (a) Do respondents agree that the individual's "right to live" includes his ability to feed and house himself and those dependent on his ability? Yes/No.

Redfield v. Fisher, 135 Or. 180, 292 P. 813, 819 (Ore. 1930): ***"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but <u>the individual's rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed.</u>"***

(b) Do respondents agree that, "***The corporation is an artificial entity which owes its existence and charter powers to the state."*** and that its existence can be taxed, unlike the existence of the individual? Yes/No.

(c) Do respondents agree that ***<u>the individual's rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed?</u>***

26. Do the respondents agree that the Corporation Excise Tax Act of 1909 was an excise tax on the corporation privilege, and not a tax on the income of the corporation? Yes/No.

STRATTON'S INDEPENDENCE, LTD. v HOWBERT, 231 US 399, 414-415, (1913):

"As has been repeatedly remarked, <u>the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law</u>. This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. <u>The act of 1909 avoided this difficulty by imposing not an income tax, but an excise tax upon the conduct of business in a corporate capacity, measuring, however, the amount of tax by the income of the corporation</u>, with certain qualifications prescribed by the act itself."

"Moreover, the section imposes ' a special excise tax with respect to the carrying on or doing business by such corporation,' etc…"

"Corporations engaged in such business share in the benefits of the federal government, and ought as reasonably to contribute to the support of that government as corporations that conduct other kinds of profitable business."

"… the annual gains of such corporations are certainly to be taken as <u>income</u> for the purpose of measuring the amount of the tax."

STANTON v BALTIC MINING CO., 240 US 103, 112-114 (1916):
"Not being within the authority of the 16th Amendment, the tax is therefore, within the ruling of Pollock… a direct tax and void for want of compliance with the regulation of apportionment."

"…it manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation.."

"…it was settled in Stratton's Independence… that such tax is not a tax upon property… but a true excise levied on the result of the business.."

27. Do respondents agree that the corporate income tax is an excise tax on the privilege of carrying out business in a corporate capacity? Yes/ No.

28. (a) Do respondents agree that the annual gains of corporations are only used to measure the amount of tax, but the gains are not themselves taxed? Yes/No.

DOYLE v. MITCHELL BROS., 247 U.S. 179, 183 (1918):
"An examination of these and other provisions of the Act make it plain that the legislative purpose was <u>not to tax property</u> as such, or the <u>mere conversion of property</u>, but to <u>tax the conduct of the business of corporations</u> organized for profit upon the gainful returns from their business operations."

(b) Do respondents agree that even corporations cannot be taxed directly on their earnings without apportionment, as that would be a direct tax on property? Yes/No.

(c) Do respondents agree that the word "income" in its constitutional sense pertains only to a gain or increase arising from corporate activities? Yes/No.

(d) Do respondents agree that the prohibition against an un-apportioned direct tax is a constitutional right? Yes/No.

"`[T]his Court now has rejected the concept that constitutional rights turn upon whether a governmental benefit is characterized as a "right" or as a "privilege."'" Sugarman v. Dougall, 413 U.S. 634, 644 (1973) (quoting Graham v. Richardson, 403 U.S. 365, 374 (1971)).

29. Do respondents agree that the income tax is such a vague statute (government officials cannot identify the Statute At Large, the Code Section and the Implementing Regulation), that it violates the first essential of due process as stated in **Connally**? Yes/No.

"(A) statute which either forbids or requires the doing of an act <u>in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application</u>, violates the first essential of due process of law." Connally v General Construction Co., 269 US 385, 391 (1926).

30. (a) Do respondents agree that USC 7608 is a code section that pertains to all enforcement authority of all IRS agents, criminal and non-criminal, and is rendered all-inclusive by the term "**<u>or other internal revenue officer by whatever term designated"</u>**? Yes/No.

26 USC Sec. *7608*. ***- Authority of internal revenue enforcement officers***

"(a) <u>Enforcement of subtitle E and other laws pertaining to liquor, tobacco, and firearms</u>

<u>"Any investigator, agent, or other internal revenue officer by whatever term designated</u>, whom the Secretary charges with the duty of enforcing any of the

criminal, <u>seizure</u>, or forfeiture provisions of <u>subtitle E or of any other law of the United States pertaining to the commodities subject to tax</u> under such subtitle for the enforcement of which the Secretary is responsible…"

(b) Do respondents agree that **<u>"Any investigator, agent, or other internal revenue officer by whatever term designated"</u>** only has enforcement authority under the provisions of "**<u>subtitle E or of any other law of the United States pertaining to the commodities subject to tax</u>".** Yes/No.

(c) Do respondents agree that citizens working in the private and public sectors do not have any matters of dealing with **<u>"Any investigator, agent, or other internal revenue officer by whatever term designated"</u>** under the provisions of "**<u>subtitle E or of any other law of the United States pertaining to the commodities subject to tax</u>**" except when purchasing commodities, and that such purchases contain the taxes in the price of the product**?** Yes/No.

(d) Do respondents agree that it is an act of fraud, or at least an error, for the IRS to claim that 26 USC 7608 was limited to criminal investigators and criminal matters? Yes/No.

(d) Do respondents agree that fraud vitiates everything into which it enters, according to the rulings of the Courts? See ***McNally v. U.S., 483 U.S. 350, 371-372 (1987), Quoting U.S. v Holzer, 816 F.2d. 304, 307.***

(e) Do respondents agree that there are people unlawfully held in prison on "income tax evasion" if the term "income" in the Internal Revenue Code only has application to "**<u>subtitle E or of any other law of the United States pertaining to</u>**

<u>the commodities subject to tax</u>" and that they were unlawfully convicted of failing to pay a direct un-apportioned tax? Yes/No.

(f) Do respondents agree that there are people unlawfully held in prison on "income tax evasion" if the term "income" in the 16th Amendment means only a profit derived by a corporation, and that "***other provisions of the Act make it plain that the legislative purpose was <u>not to tax property</u> as such, or the <u>mere conversion of property</u>, but to <u>tax the conduct of the business of corporations</u> organized for profit upon the gainful returns from their business operations."*** and that they were convicted of failing to pay a direct un-apportioned tax? Yes/No.

31. (a) Do respondents agree that a conviction obtained by means of fraud, voids the judgment? Yes/No.

"Void order which is <u>one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally</u>, provided that party is properly before court", **People ex rel. Brzica v. Village of Lake Barrington, 644 N.E.2d 66 (Ill.App. 2 Dist. 1994).**

(b) Do respondents agree that, ***"Knowing failure to disclose material information necessary to prevent statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under law"?***

(c) Do respondents agree that convictions obtained by means of withholding material information from a jury, are void ab initio? Yes/No.

(d) Do respondents agree that the judges, prosecuting attorneys, and IRS agents, who did not inform the jury of the Internal Revenue meaning of the word "income" (material information) perpetrated fraud or at least displayed gross negligence and incompetence in these cases? Yes/No.

(e) Do respondents agree that the judges, prosecuting attorneys, and IRS agents, who did not inform the jury on the limitations of federal taxing powers and the meaning of the word "income" (material information), perpetrated fraud or at least displayed gross negligence in these cases? Yes/No.

(f) Do respondents agree that in such a serious matter, where people are unlawfully held in prison, that the Congress and IRS officials have the duty to immediately act to correct the unlawful imprisonment of innocent people? Yes/No.

"Sovereign immunity does not apply where (as here) government is a lawbreaker or jurisdiction is the issue." **Arthur v. Fry, 300 F.Supp. 622 (1960).**

"Knowing failure to disclose material information necessary to prevent statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under law." **Rubinstein v. Collins, 20 F.3d 160, 1990.**

"Party in interest may become liable for fraud by mere silent acquiescence and partaking of benefits of fraud." **Bransom v. Standard Hardware, Inc., 874 S.W.2d 919, 1994.**

32. (a) Do respondents agree that they cannot not provide the Statute At Large, the Code Section, or the Implementing Regulation of the alleged law, that impose an income tax on every individual? Yes/No.

The LAW of the case must affirmatively appear in record, which in the instance of a tax controversy necessarily includes taxing and liability statutes with attending regulations. (See UNITED STATES OF AMERICA v. MENK, 260 F.Supp. 784, 787 and UNITED STATES OF AMERICA v. COMMUNITY TV INC., 327 F.2d 79 (10th Circuit 1964).

(b) Do respondents agree that the law, i.e., taxing and liability statutes have not been provided to the citizens? Yes/No.

33. Do respondents agree that by concealing information from the general public in the material matter as to which laws or regulations were referred to in IRS literature, that the IRS was guilty of violating their fiduciary obligation and committed acts of malicious and deliberate fraud? Yes/No.

34. (a) Do respondents agree that if all persons dealing with the government are charged with knowing the government statutes and regulations, then does it not follow that the IRS should also be able to provide the statutes and regulations in their literature, which they claimed make all individuals liable for income taxes? Yes/No.

(b) Do respondents agree that if a person requests a government agent to provide the authority under which the agent operates, and that agent refuses to provide that authority or even respond, does that not constitute fraud? Yes/No.

Lavin v. Marsh, 644 F.2d 1378 (9th Cir. 1981): "Persons dealing with the government <u>are charged with knowing government statutes and regulations,</u> and they assume the risk that government agents may exceed their authority and provide misinformation," 644 F.2d, at 1383.

Bollow v. Federal Reserve Bank of San Francisco, 650 F.2d 1093 (9th Cir. 1981) held:

"All persons in the United States are chargeable with knowledge of the Statutes-at-Large....[I]t 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," 650 F.2d, at 1100.

35. (a) Do respondents agree that W-4 forms that are required to be filed with employers under 26 USC 3401 through 3405, are only required to be filed by employees, as defined by 26 USC 3401? Yes/No.

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."

(b) Do respondents agree that the definition of "employee" in 26 USC 3401 (c) cannot be expanded by implication beyond the clear import of the language, and that the clear language does not include private workers in private industries? Yes/No.

GOULD v. GOULD , 245 U.S. 151 (1917): "*<u>In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out</u>. In case of*

doubt they are construed most strongly against the government, and in favor of the citizen. United States v. Wigglesworth, 2 Story, 369, Fed. Cas. No. 16,690; American Net & Twine Co. v. Worthington, 141 U.S. 468, 474 , 12 S. Sup. Ct. 55; Benziger v. United States, 192 U.S. 38, 55 , 24 S. Sup. Ct. 189."

(c) Do respondents agree that this is a material matter that should be made known to the general public? Yes/No.

36. (a) Do respondents agree that 26 USC 6332 (c) requires that any surrender to the IRS of bank deposits by a bank, must be accompanied by an attachment or execution under judicial process? Yes/No.

"Special rule for banks

"Any bank (as defined in section 408(n)) shall surrender (<u>subject to an attachment or execution under judicial process</u>) any deposits (including interest thereon) in such bank only after 21 days after service of levy."

(b) Do respondents agree that the definition of "attachment or execution under judicial process" in 26 USC 6332 (c), cannot be expanded by implication beyond the clear import of the language? Yes/No.

(c) Do respondents agree that, ***"In the interpretation of statutes levying taxes"*** that "***In case of doubt they are construed most strongly against the government, and in favor of the citizen"***? Yes/No.

GOULD v. GOULD , 245 U.S. 151 (1917): "In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. <u>In case of doubt they are construed most strongly against the government, and in favor of</u>

<u>the citizen</u>. United States v. Wigglesworth, 2 Story, 369, Fed. Cas. No. 16,690; American Net & Twine Co. v. Worthington, 141 U.S. 468, 474 , 12 S. Sup. Ct. 55; Benziger v. United States, 192 U.S. 38, 55 , 24 S. Sup. Ct. 189."

(d) Do respondents agree that a mere "notice of levy" is not an actual levy, and that a notice of levy is fraud without an actual levy being perfected or accomplished? Yes/No.

"A 'Levy' requires that property be brought into legal custody through seizure, actual or constructive, and is absolute appropriation <u>in law</u> of property levied on, and MERE NOTICE OF INTENT TO LEVY IS INSUFFICIENT" (Emphasis added). United States v. O'Dell, 160 F. 2d 304, 307 (6th Circuit 1947).

(e) Do respondents admit that the IRS routinely serves a mere "notice of levy" on banks and employers, without having perfected or accomplished an actual levy and without an attachment or writ under judicial process? Yes/No.

(f) Do respondents agree that a 668-B (LEVY) form must be filled out and completed before a 668-A, 668-W, or 668-Y (NOTICES OF LEVY) can be sent out? Yes/No.

> ***"Under the 1939 Code, effective with respect to distraint and seizure and sale actions prior to January 1, 1955, levy or distraint on personal or real property in the possession of a taxpayer was authorized by a signed Warrant for Distraint, Form 69, which commanded the collection officer to take the necessary distraint action. Under the 1954 Code, effective with respect to all collection actions after December 31, 1954, the levy and distraint action will be authorized by a new form, Levy, Form 668-B, January 1955. <u>This form (668-B, not 668-W, notice of levy), properly executed, directs the collection officer to levy</u> upon, and to sell so much of the property and rights to property, either real or personal, of the taxpayer liable, as may be necessary to satisfy the taxes enumerated in the levy. The Form will not require any accompanying documents, since the Form, properly prepared, will***

contain all information necessary to meet the statutory requirements (emphasis added)." Henderson v. Internal Revenue Service, Kleinrock's Tax Court Reported, 1994-486, S.D.Indiana, Case # IP 93-1699-C, Filed May 31, 1994.

37. (a) Do respondents admit that the IRS agents charged with enforcement (note: who are only authorized to collect excise taxes under 26 USC 7608), have repeatedly made up bogus assessments, "under color of law", in violation of administrative due process as required by law. <u>Bogus assessments go out with no date of assessment and no signature by an assessment officer</u>. Yes/No.
38. (a) Do respondents agree that the IRS agents charged with enforcement (note: who are only authorized to collect excise taxes under 26 USC 7608), have repeatedly made up bogus assessments, "under color of law", in violation of administrative due process as required by law. <u>Bogus assessments go out with no date of assessment and no signature by an assessment officer</u>. Yes/No.

    (b) Do respondents agree that 26 USC 6201 and 6203 (Assessment Authority and Method of Assessment) have no legislative regulations under 26 CFR as required by 5 USC 552 in order to have applicability with respect to income taxes? Yes/No.

    (c) Do respondents agree that code section 26 USC 6201, being a part of Title 26 is traced to 3182 R.S. 1874 and thence to Statutes at Large, December 24, 1872, Chap. 13, Sec. 2, Vol. 17, page 402 which clearly describes authorized assessment of taxes by the Secretary as being only applicable to tobacco and distilled spirits (subtitle E)? Yes/No.

(d) Do respondents agree that this is a material matter that the Congress should notify the general public on? Yes/No.

(e) Do respondents agree that they have the obligation to uphold the laws of the United States and properly apply the regulations as they are written in CFR sec. 301.6203-1? Yes/No.

CFR Sec. 301.6203-1 Method of 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. <u>The date of the assessment is the date the summary record is signed by an assessment officer</u>."

"…A signature requirement protects the taxpayer by ensuring that a responsible officer has approved the assessment…", **<u>CURLEY v. U.S.</u>, Cite as 791 F. Supp 52 (E.D.N.Y. 1992)**

Internal Revenue Manual 3(17)(63)(14).1: (2) All tax assessments must be recorded on Form 23C Assessment Certificate. The Assessment Certificate must be signed by the Assessment Officer and dated. <u>The Assessment Certificate is the legal document that permits collection activity…</u>

(f) Do respondents agree that an unsigned "assessment" violates the law? Yes/No.

(g) Do respondents agree that and undated "assessment" violates the law? Yes/No.

(h) Do respondents agree that an "assessment" must be recorded on a form 23C assessment certificate? Yes/No.

(i) Do respondents agree that collection actions are not permitted without an assessment certificate? Yes/No.

I reserve the right to challenge each and every answer by the respondents. Refusal to answer the above questions shall be construed as an act of “bad faith” and a refusal of respondent’s fiduciary obligation, with attendant issues of fraud. Any violation of fiduciary responsibility shall be reported to the Secretary of the Treasury.

Respondents are hereby given notice that the responses, or non-responses, shall create presumptions, which shall be relied upon in any and all future proceedings or actions.

I respectfully request that each respondent answer each question by circling the “Yes” or “No” at the end of each question, and notify Congress as to any violations of the law that is currently being done at the Internal Revenue Service, and file such response with me within 10 working days.

Date:

Signature: ______________________________

Printed name:

Address: