

# WE CHALLENGE ANYONE TO DISPROVE THESE FACTS ABOUT INCOME TAX LAW

**FACT 1. RESIDENTS OF THE STATES OF THE UNION ARE NOT REQUIRED BY LAW TO FILE FORMS 1040 AND THEY ARE NOT LIABLE FOR THE PAYMENT OF A TAX ON "INCOME" UNLESS THEY ARE WITHHOLDING AGENTS.**

There is no provision in the Internal Revenue Code imposing an "income" tax on monies received by citizens or resident aliens residing within the states of the union, regardless of the amount, unless the money is received on behalf of, or paid to, a nonresident alien, or other foreign entity.

**FACT 2. AMERICANS ARE MISLED AND DECEIVED INTO BELIEVING THAT THE "INCOME" TAX APPLIES TO THE GENERAL PUBLIC.**

For years, the Internal Revenue Service has RULED the American people in a manner equalled only by the Nazi Gestapo. FEAR and BLUFF have been the IRS's major weapons. Americans have been led to believe that they owe a tax on their earnings; that it is their "patriotic duty" to pay it, and that there is no alternative to the IRS's abuse. These beliefs are simply untrue. Because accountants, tax preparers, and others profit from the fraudulent misapplication of the law, most of them are reluctant to admit the truth about the law when they are confronted with it.

**FACT 3. THE IRS ADMITS THAT THE "INCOME" TAX SYSTEM IS DEPENDENT ON THE VOLUNTARY FILING OF TAX RETURNS.**

In the decision of *U.S. v. Flora*, 362 U.S. 145, (1960), on p. 176, the U.S. Supreme Court stated: *Our system of taxation is based on voluntary assessment and payment, not upon distraint.* If a law requires you to do something, your compliance with the law is mandatory, not voluntary. But if a law requires certain other people, (not you) to do something, then your compliance with that law is voluntary. The IRS has repeatedly stated that: *The mission of the Internal Revenue Service is to encourage and achieve the highest possible degree of "VOLUNTARY COMPLIANCE" with the tax laws and regulations...* (IR Manual Sec. 1111.1)

**FACT 4. CITIZENS IMPOSE AN "INCOME" TAX ON THEMSELVES WHEN THEY VOLUNTARILY FILE A 1040 INCOME TAX RETURN.**

Citizens voluntarily comply and "self assess" a tax upon themselves when they file a 1040 tax return, thereby acknowledging under penalty of perjury that they owe a tax that the I R Code does not impose on them.

**FACT 5. THE CONSTITUTION FORBIDS THE U.S. GOVERNMENT TO IMPOSE ANY DIRECT TAX ON THE PEOPLE IN THE STATES OF THE UNION.**

Two provisions in the U.S. Constitution prohibit the imposition of direct taxes on the people or their property by the U.S. government. The first is Article 1, Section 2, Clause 3, which requires the amount of any direct tax to be divided among the state governments in proportion to the popula-

tion of each state. The second provision is in Article 1, Section 9, Clause 4, which prohibits any capitation tax (a tax on people) or other direct tax unless apportioned among the states. Direct taxes have been imposed only five times in U.S. history. All were imposed on state governments (not individuals). The last direct tax was imposed in 1861.

"No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken."  
Art. 1, Sec. 9, Cl. 4

**FACT 6. THE U. S. SUPREME COURT RULED THAT THE "INCOME" TAX IS CONSTITUTIONAL AS AN INDIRECT (EXCISE) TAX, BUT NOT AS A DIRECT TAX (a tax on the general public).**

In the 1916 decisions of *Brushaber v. Union Pacific R.R.* 240 U.S. 1, and *Stanton v. Ballis Mining*, 240 U.S. 103, the U.S. Supreme Court ruled that the 16th Amendment (the "income" tax amendment) to the U.S. Constitution created *no new power of taxation* and that it did not amend or nullify the constitutional prohibition against direct taxation of the people within the states of the union. The Court ruled that the "income" tax is constitutional as an indirect *excise tax on the receipts of foreigners*, but not as a direct tax on the American people. In the decision of *Flint v. Stone Tracy Co.* 220 U.S. 107, the U.S. Supreme Court defined an "excise" as a tax on *activities* involving the *exercise of a privilege*.

**FACT 7. THE IRS ADMITS THAT THE BRUSHABER DECISION RELATES TO "INCOME" ACCRUING TO NONRESIDENT ALIENS ONLY.**

Treasury Decision 2313, issued Mar. 21, 1916 by the Commissioner of Internal Revenue to inform collectors of internal revenue of the significance of the *Brushaber* decision states: *Under the decision of the Supreme Court of the United States in the case of Brushaber v. Union Pacific Railway Co., decided January 21, 1916, it is hereby held that income accruing to nonresident aliens in the form of interest from the bonds and dividends on the stock of domestic corporations is subject to the income tax imposed by the act of October 3, 1913.*

TD 2313 also states: *The responsible heads, agents, or representatives of nonresident aliens, who are in charge of the property owned or business carried on within the United States, shall make (file) a full and complete return of the income therefrom on Form 1040, revised, and shall pay any and all tax, normal and additional, assessed upon the income received by them in behalf of their nonresident alien principals.* This document shows that the "withholding agent" receiving "income" on behalf of a nonresident alien, must pay the tax and file a 1040 for his nonresident alien principal.

**FACT 8. FORM 1040 IS AN INCOME TAX RETURN FOR NONRESIDENT ALIENS.**

IR Code Sec. 871 (a) imposes a tax of 30% on the amount received by non-resident aliens from sources within the United States. Sec 871 (b) states that the nonresident alien shall be taxable under Sec. 1, thus authorizing the use of the charts in Sec. 1 to compute and reduce his tax, so he can get a tax refund from the 30% which is withheld under the provisions of Sec 1441. Also, under I.R. Code Sec. 874 (a), the nonresident alien is entitled to the benefit of deductions and credits by filing or having his agent file, a 1040, as stated in TD 2313.

**FACT 9. "INCOME" IS MONEY RECEIVED ON BEHALF OF, OR PAID TO, A NONRESIDENT ALIEN.**

I.R. Code Sec. 1441 (a) and (b) state that *...interest, ...dividends, rent, salaries, wages, premium annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodic gains, and profits...* are "income" when received on behalf of, or paid to, a nonresident alien or other foreign entity. Also, courts have ruled that profits of corporations are "income." But... **There is no provision in the IR Code stating that receipts belonging to citizens or residents of the country are "income."** Thus, a citizen's own receipts are not "income," "gross income," or "taxable income" under the IR Code.

Within the states "income" is property derived from activities involving the exercise of a government granted privilege.

**FACT 10. IT IS A PRIVILEGE FOR A NONRESIDENT ALIEN TO DO BUSINESS, TO INVEST, OR TO WORK IN THE U.S.A.**

The U.S. government can prohibit foreigners from working, investing, or doing business within this country, and allowing such activity is a *privilege* subject to an *excise tax*, similar to the government granted privilege to do business as a corporation. But Americans have a non-taxable RIGHT to work, invest or do business in this country. The U.S. Supreme Court in *Murdoch v. Pennsylvania*, 319 U.S.105 stated: *A state may not impose a tax for the enjoyment of a right granted by the Federal Constitution.*

**FACT 11. THE "INCOME" TAX IS AN INDIRECT EXCISE TAX ON PRIVILEGED ACTIVITIES, NOT ON "INCOME." THE "INCOME" IS MERELY THE MEASURE OF THE TAX.**

The CONGRESSIONAL RECORD, Volume 89, Part 2, on page 2580 for March 27, 1943 states: *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 the tax.* The U.S. Supreme Court in the decision of *Flint v. Stone Tracy Co.*, 220 U.S. 107, in discussing income tax as an excise tax, stated on p. 165 *It is therefore well settled by the decisions of this court that when the sovereign authority has exercised the right to tax a legitimate subject of taxation as an exercise of a franchise or privilege, it is no objection that the measure of taxation is found in the income.*

**FACT 12. WITHHOLDING AGENTS ARE REQUIRED TO WITHHOLD FROM PAYMENTS OF "INCOME" TO FOREIGN PERSONS ONLY.**

IR Code Sec. 7701(a)(16) states: *The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of sections 1441, 1442, 1443, or 1461.* These sections apply to money received on behalf of, or paid to, nonresident aliens, foreign partnerships, foreign corporations, and other foreign entities *only*, not to money received by citizens on their own behalf. Because the U.S. Government has no authority over foreign citizens living in a foreign country, the only individuals who can be required to deduct and withhold the tax on foreigner's receipts and can be made liable for payment of the tax are withholding agents who are within this country.

"Representatives and direct taxes shall be apportioned among the several states..."  
Art. 1, Sec. 2, Cl. 3

**FACT 13. THE ONLY PERSON MADE LIABLE IN THE INTERNAL REVENUE CODE FOR PAYMENT OF "INCOME" TAX IS A WITHHOLDING AGENT.**

Subtitle A of the IR Code contains the provisions of the law imposing "income" tax. In Subtitle A, Sec. 1461 is the only section making any person liable for (subject to) payment of "income" tax. The only individual made liable is the "withholding agent;" he is required to withhold from "income" of foreign persons, ONLY.

**FACT 14. THE ONLY WAY A PERSON CAN BE "MADE LIABLE" FOR ANY INTERNAL REVENUE TAX IS BY A PROVISION IN THE LAW. (a statute)**

In the decision of *Botta v. Scanlon*, 288 F. 2d 509 (1961), the United States Court of Appeals explained that there is only one way that a tax liability can be created. It stated... *Moreover, even the collection of taxes should be exacted only from persons upon whom a tax liability is imposed by some statute.* In Sutherland's Rules of Statutory Construction, an authoritative reference book on interpretation of statutes, section 66.03 states: *...the obligation to pay taxes arises only by force of legislative action...* Legislative action is the passage of a statute (a law). For anyone to be "liable" for income tax, it must be so stated in the IR Code.

**FACT 15. PROVISIONS MAKING ANYONE LIABLE FOR PAYMENT OF A TAX MUST BE STATED IN CLEAR UNDERSTANDABLE LANGUAGE.**

In the decision of *Higley v. Commissioner of Internal Revenue*, 69 F.2d 160, headnote 2 states: *Liability for taxation must clearly appear from statute imposing tax.* Sutherland's Rules of Statutory Construction, under Section 66.01 titled, "Strict construction of statutes creating tax liabilities," refers to the U.S. Supreme Court decision of *Gould v. Gould*, 245 U.S. 151, which states: *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 operation so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government, and in favor of the citizen.*

**FACT 16. IR CODE PROVISIONS IMPOSING LIABILITY ARE CLEARLY STATED AND USE THE WORD 'LIABLE'.**

The word "liable" is found in IR Code Sections 4401(c), 5005(a), 5703(a) and 1461, which create liabilities for wagering tax, distilled spirits tax, tobacco tax, and "income" tax, respectively. Section 1461 is the ONLY section in the IR Code imposing a liability for payment of "income" tax. That section applies to WITHHOLDING AGENTS ONLY (those required by Sec 1441 to deduct and withhold from payments of "income" owed to foreign persons). Sec. 1461 states: *Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax.*

**FACT # 17. IR PUBLICATION 515 EXPLAINS THAT WITHHOLDING APPLIES TO MONIES OWED TO FOREIGN PERSONS ONLY, NOT TO CITIZENS OR RESIDENTS OF THE UNITED STATES.**

Page 2 of IR Publication 515 instructs those who pay wages, rents, dividends, interest, etc. that... *If an individual gives you a written statement, in duplicate, stating that he or she is a CITIZEN or RESIDENT of the United States, and you do not know otherwise, you may accept this statement and are relieved from the duty of withholding the tax.*

**FACT 18. IR CODE CHAPTER # 24, PROVIDES FOR WITHHOLDING FROM "EMPLOYEES." IT DOES NOT APPLY TO ANY NON-GOVERNMENT EMPLOYEE OR EMPLOYER. (See Sec. 3401 (c) & (d))**

Chapter 24 of the IR Code contains provisions that authorize the U.S. Government, the District of Columbia,

their agencies and instrumentalities, to set up and administer a voluntary withholding system for their employees. Without such statutory authority, no official of the government could legally create a withholding system in government.

Please note - Chapter 24 imposes NO tax on any government or non-government employee.

**FACT 19. THERE IS NO AUTHORITY TO WITHHOLD MONEY FROM A CITIZEN OR RESIDENT OF THE UNITED STATES UNLESS HE AUTHORIZES IT.**

The Fifth Amendment to the Bill of Rights of the U.S. Constitution, states that no individual can be deprived of property without due process of law (a hearing in a court of law). The ONLY way a United States citizen or resident alien can legally have "income" tax withheld from his pay, is if he authorizes it by voluntarily signing an IRS Form W-4, "Employee's Withholding Allowance Certificate," thus indicating that he is in the same status as a nonresident alien. That is why the IRS pressures employers to obtain the voluntary execution of IRS Form W-4 by all people being hired. However, no federal law or regulation requires any individual to sign a Form W-4 to qualify for a job.

**FACT 20. CITIZENS LIVING AND WORKING ABROAD ARE SUBJECT TO "INCOME" TAX.**

The U.S. Supreme Court in the decision of *Cook v. Tait*, 265 U.S. 47 (1924), ruled that: *Congress has power to tax the income received by a native citizen of the United States domiciled abroad from property situated abroad.* The constitutional prohibition of unapportioned direct taxes within the states of the union does not apply in foreign countries.

**FACT # 21. A RETURN FOR CITIZENS LIVING AND WORKING ABROAD IS THE ONLY RETURN REQUIRED TO BE FILED BY CITIZENS UNDER SEC. 1 OF THE I.R. CODE.**

The Paperwork Reduction Act requires that any form on which information is required to be submitted must first be approved by the Office Of Management and Budget and must be given an "OMB" number. The chart listing the OMB numbers of the forms required to be used for compliance with the various I.R. Code sections is found in Chapter 600 of the I.R. Regulations. That chart shows there is only ONE FORM REQUIRED to be filed by citizens for compliance with Sec. 1, which contains the same tax tables that are found in the 1040 instruction booklet. That form is identified by OMB number 1545-0067, which is on Form 2555, a return to be filed by citizens living and working abroad.

**FACT 22. CRIMINAL INVESTIGATIONS FOR INCOME TAX APPLY TO CITIZENS LIVING ABROAD AND NONRESIDENT ALIENS ONLY.**

Internal Revenue Manual (1-6-87) Sec. 1132.75, describes the limited scope of criminal investigations. It states: *The Criminal Investigations Branch enforces the criminal statute applicable to income, estate, gift, employment, and excise tax laws... "Involving United States citizens residing in foreign countries and nonresident aliens subject to Federal income tax filing requirements..."*

**FACT 23. TO UNDERSTAND THE I.R. CODE, ONE MUST LEARN WHICH WORDS ARE USED IN THE CODE AS LEGAL TERMS.**

In the I.R. Code, many words of common usage are used as legal terms that have meanings more limited in their application than when defined for common usage. Words such as *taxpayer, taxable income, taxable year, employee, employer, wages, United States, State, person, etc.* are legal terms that have limited meanings when used in the Code. Some legal terms have different

meanings when used in different parts of the Code. To understand the true meaning of the code, it is necessary to learn the various definitions of those terms and where in the Code the definitions apply.

**FACT 24. THE I. R. CODE APPLIES TO "TAXPAYERS" ONLY (those who are "made liable" for a tax by a statute).**

This fact has been clearly stated through the years in many court decisions including *Long v. Rasmussen*, 281 F. 236 (1922), *Stuart v. Chinese Chamber of Commerce of Phoenix*, 168 F.2d 712 (1948), *First National Bank of Emmlenton, Pa. v. U. S.*, 161 F. Supp. 847 (1958), *Botta v. Scanlon*, 288 F.2d 509 (1961), and *Economy Plumbing v. U.S.*, 470 F.2d 589 (1972) "Taxpayer" (one word not two), is a legal term defined in I.R. Code Sec 7701 (a)(14) which states: *The term "taxpayer" means any person subject to any internal revenue tax.* For a person to be subject to a tax, there must be a provision in the law stating clearly that his activity makes him "liable" for the tax. Paying a tax such as a sales tax or real estate tax does not place one in the legal status of "taxpayer" as that term is used in the IR Code.

**FACT 25. THE TERMS "TAXABLE INCOME" AND "TAXABLE YEAR" APPLY TO "TAXPAYERS" ONLY.**

These terms, defined in IR Code Sec. 441 (a) & (b), apply to "taxpayers" only, and to those who file returns, thus stating (in effect) under penalty of perjury, that they are "taxpayers". Also, "Taxable year" is a key legal term in Sec. 6012(a)(1), a section that the IRS cites when claiming that individuals are required to file income tax returns. Since a withholding agent is the only person in the IR Code "made liable" for payment of income tax, he is the only individual in the legal status of "taxpayer" in respect to "income tax;" thus a withholding agent is the only one who has a "taxable year" under Sec.6012 (a)(1).

**FACT 26. CERTAIN "PERSON(S)" ONLY, ARE SUBJECT TO CRIMINAL PENALTIES**

Those "person(s)" who are subject to the criminal penalties in the Code are defined and limited by IR Code Sec. 7343 to those required to act on behalf of a corporation or partnership. Sec. 7343 states: *The term "person" as used in this chapter includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.* When an individual is not in such a capacity, his prosecution under the Code is illegal.

**FACT 27. KARL MARX WROTE IN HIS COMMUNIST MANIFESTO TEN PLANKS NEEDED TO CREATE A COMMUNIST STATE. THE FIRST PLANK WAS THE ABOLITION OF THE RIGHT TO OWN PROPERTY. THE SECOND PLANK WAS A PROGRESSIVE INCOME TAX.**

If the government could legally tax citizens' earnings, government would then have first claim on those earnings (his property). His circumstances would be like the slave who is allowed to have only that which is left after the master takes whatever he wants.

**CONCLUSION**

It is morally wrong for the government to intimidate and deceive the people into believing that they must pay an "income" tax that is forbidden by the U.S. Constitution to be imposed on the general public. Officials who are notified, or become aware of the IRS's illegal action to force ordinary citizens to pay an "income" tax, who then do nothing to stop it, violate their oaths of office to uphold and enforce the Constitution. (Facts 5 & 6)

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