The Story of Taxes

Barrie Konicov



Illustration by Bobbi Kindt

Imagine with me that you are sitting home one evening and there is a knock at your front door. Opening the door, you find a Mexican soldier with a document in his hand. Although you are somewhat startled, you, nevertheless, invite him into your home. Luckily, you know just enough Spanish because his English is not very good. But with his limited English and your limited Spanish, he gets you to understand that he is there to give you your individual INCOME tax return. The form is to be filled out and returned to the Mexican Government with a check for 30% of your last year's earnings by April 15th. What would you do? Most probably, you would be polite but firm, pointing out to the soldier that this is the United States of America, not Mexico, and that he doesn't have any authority to be in this country collecting income taxes.

The soldier is also polite but firm. It doesn't matter to the soldier where you live or who you work for because his job is to collect the tax. After a few uncomfortable moments, you ask the soldier to leave, and he does. After sharing the story with your friends, the incident is forgotten.

Just when you think everything is over, you receive a notice from the Mexican Government informing you that, because you have not filled out an INCOME tax return, one has been filled out and filed for you. Now, besides the tax, you owe an additional 25% for penalties and interest.

Thinking this is all a big mistake, you call the number on the form. The people you talk to can barely speak English. Finally, you give up trying to get them to understand you, and you dismiss the entire incident as a big mistake.

A few weeks later, you receive a threatening letter in the mail. The letter is a notice telling you that, unless you pay your tax immediately, legal proceedings will be instigated. You are notified that they have several means of getting you to cooperate. They could place a lien on your home and sell it for back taxes, your wages could be garnisheed, or you could be facing possible criminal charges unless you pay the tax. By now, your fear is beginning to rise. You call your attorney and tax accountant and make an appointment to see them.

After looking over your papers, they both agree nothing is wrong. The papers are in order. Granted, heretofore the Mexican Government did not have any authority to tax United States citizens directly, but, because of the new North American Free Trade Agreement, they SAY they now have the authority. Both your attorney and your accountant have been specially trained by the Mexican Government to advise you in matters of this sort. They are confident that everything is legal. They advise you to pay the tax or run the risk of losing everything and going to jail.

Now you are really angry. After talking it over with your family, you decide to fight the tax. After all, this is America, and you do have rights. On the other hand, how can you beat the Mexican Government? They are *the government*, and the law is on their side. You are just one person. Even if

you win, it will cost more to fight the tax than to pay it.

It doesn't matter. You are a person of principle and integrity. Regardless of the cost, you are going to fight this tax. It is obvious to you that the Mexican Government has no right to tax a United States citizen.

The day of the trial you show up in court fearful but confident that everything will turn out in your favor. The Constitution will protect you. Yet, the moment the trial begins, fear takes over. The Mexican Government presents several expert witnesses, each testifying to the truth and accuracy of the documents. As far as they are concerned, you owe the tax.

Your attorney is polite, but he doesn't seem to have much fight in him. He keeps pandering to the judge. Finally, it is your turn to take the witness stand. Then fear really takes over. In the end, the judge rules that the Mexican Government's papers are in order and that you owe what they say you owe. Only, now, the amount has doubled due to penalties and interest. Unable to pay, your home is sold in order to pay the tax, and you are out on the street, having lost your home and your job. To top it off, your attorney keeps telling you how lucky you are—you could be in jail right now for "willfully failing to file," which is a criminal offense. That is what they do to "tax protesters."

If you're thinking, "Thank God this is only happening in my imagination," or if you think this couldn't happen to you because this is America and your rights are protected by the Constitution and the Bill of Rights, you're wrong. It does happen, and it happens every day to people just like you and me. Just as the Mexican Government has no authority to impose an individual INCOME tax on you, neither does the United States Government.

I know this is true because I have not paid individual INCOME tax for the past three years. In fact, my wife has a letter from the Internal Revenue Service notifying her that she is not required to file a tax return for a specific tax period. (See Below.)

Now, let me add this: Unless you work for the federal government and/or live in a federal area, then you, like me, are not a person liable to file an individual INCOME tax return. Read on, and you will learn truths that will anger you, but, ultimately, will set you free.

The federal United States Government has made asses out of you and me. More than asses, it has made us slaves. We the People have been voluntarily turning over up to 30% or more of our WAGES. Not because we owe it, but because they SAY we do. Would you have believed that our government was not to be trusted? After all, it is the government of the best country in the world—the land of the free and the home of the brave. Aren't we taught to love our country?

Department of the Treasury
Internal Revenue Service

CINCINNATI, OH 45999

In reply refer to: 9999999999
Nov. 09, 1993 LTR 2358C
9112 30 000
Input Op: 9999999999 0322+

SUSIE W KOMICOV
9390 WHITNEYVILLE SE
ALTO MI 49302-9694905

Taxpayer Identification Number:
Form: 1040
Tax Period: Dec. 31, 1991
Correspondence Received Date: Oct. 12, 1993

Dear Taxpayer:

Thank you for responding to our inquiry about the above overdue tax return. Based on your information, we agree that you do not have to file a tax return for the above tax period(s). However, if any federal income tax was withheld, you must file a return to get a refund. We are taking no further action at this time, but we may need to contact you again if other tax issues arise. You do not need to reply to this letter.

If you have any questions about this letter, you may write us at the address shown above, or you may call the IRS telephone number listed in your local directory.

Sincerely yours,

William B. Jefferson

William B. Jefferson
Chief, Collection Branch

HAVE YOU READ A GOOD CONSTITUTION LATELY?

When was the last time you read the Constitution and the Bill of Rights? I don't remember ever reading them in school. But, lately, I have read and reread them until there are some portions that I can recite from memory.

The men who founded this country did so by creating three documents: the Declaration of Independence, the Constitution and the Bill of Rights. They placed within these documents elements which were intended to protect future generations from the insane perversion of governmental power.

When you read over these documents, you come to the inescapable conclusion that what the founding fathers freed themselves from has, again, recreated itself in these United States. You will be lead to understand that the United States Government is

doing the exact same thing to We the People that the English Government did to the colonists. The only difference is that now We the People do not have to fight for our rights, we only need to stand up for them. We only need to acknowledge the Constitution as the supreme law of the land and demand that our public employees obey the Constitution.

The Constitution is a contract which our employees have sworn "to uphold and defend." We the People are obligated to hold our employees accountable for violations of their employment contract. A violation of the supreme law of the land, the Constitution, is TREASON.

THE CONSTITUTION IS THE SUPREME LAW OF THE LAND

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Article VI

WHICH UNITED STATES ARE WE TALKING ABOUT?

Before I became a tax protester, I had no idea that the term "united States" had three separate and distinct meanings. To me, there was no distinction. Because I didn't understand the differences, I was conned into paying federal income tax. It is very important that you understand the three different ways that the term "united States" is used. Understanding them will help you to free yourself legally from the INCOME tax.

The term "united States" may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory over which the sovereignty of the United States extends. Or it may be the collective name of the States,...united by and under the Constitution.
Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)

You and I live in a sovereign state or country to the "federal United States." If we substituted "Mexican Government" it would be easier for most of us to understand. I won't do that. Instead, I will use the term "federal United States." For the purposes of individual taxation, the federal United States is a foreign country. It is located in Washington D.C. and has limited powers. These powers are spelled out in the Constitution, which grants to the federal United States the following right:

"To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of Particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings,– And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Office thereof."

Article I, Section 8

There is no question that, if you live in the federal United States, you are subject to its laws. And if these laws say that it can tax its citizen subjects, then you can legally be taxed. But for us living outside of the federal United States, the Constitution limited the power of the federal United States to tax us directly.

WHAT IS A DIRECT TAX?

The Constitution says that the federal United States has no authority to tax us directly. It does, however, recognize that situations may arise where the federal United States may need to raise money from the citizens of the individual states. Therefore, it does allow for the federal United States to pass the tax on to the individual states for collection. It authorizes this when it states in Article I, Section 2:

"Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers..."

The next time the Constitution talks about direct taxes is in Article I, Section 9, when it says:

"No Capitation, or other direct tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken."

According to the Constitution, the federal United States has no authority to tax you directly. It has no more power to do that than the Mexican Government has. The federal United States Government gets away with it because We the People allow it to.

THE SIXTEENTH AMENDMENT

The I.R.S. loves the Sixteenth Amendment. If you call them and ask them where they get the authority to tax you directly, they will point to the Sixteenth Amendment. Here is what the amendment says:

"The Congress shall have power to lay and collect taxes on INCOMES, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

At first reading, it would appear that this amendment has stripped away the Constitutional provisions prohibiting direct taxation. But do not assume that

the federal United States is now free to reach directly into your pocket and tax your wages directly, because that is not so. The amendment is talking about INCOME. You are assuming that you have INCOME.

INCOME V. WAGES

INCOME is not defined in the I.R. Code. Congress has never defined INCOME. The courts have defined INCOME as accounting profit or gain.

"There is a clear distinction between 'profit' and 'wages,' or compensation for labor. 'Compensation for labor' (wages) cannot be regarded as profit within the meaning of the law. The word 'profit', as ordinarily used, means the gain made upon any business or investment—a different thing altogether from the mere compensation for labor."

Oliver v. Halstead 86
S.E. Rep. 2d. 85e9 (1955)

Simply put, pay from a job is a "wage," and wages are not taxable. "Congress has taxed INCOME, not compensation (wages and salaries)."

Connor v. U.S., 303 F.
Supp., 1187 (1969)

There are numerous court cases which all prove that wages are not taxable. Read on for a formal legal presentation.



The following information first came to me from Al Carter at the American Institute for the Republic, 60 East 100 South, Suite 201, Provo, Utah 84505. Al received the information from an anonymous source in the I.R.S.

TAX LAW ORIGINS AND AUTHORITY

Congress has had the power to lay and collect income taxes from the time of the adoption of the Constitution (Brushaber v. Union Pacific R.R. Co. N.Y. 1916, 36 S. Ct. 236, 240 U.S.1). This power was subject to the requirement that direct taxes be apportioned among the several states according to population. (Pollack v. Farmers Loan and Trust Co. N.Y. 1895, 125 S. Ct. 673, 157 U.S. 429.) The adoption of the Sixteenth Amendment to the Constitution, effective Feb. 25, 1913, gave Congress the power to:

"lay and collect taxes on income, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration." (Evans v. Gore, Ky 1920, 40 S. Ct. 550, 253 U.S. 245.) (Kasey v. C.I.R., CA 9 1972, 457 F2d 369 Certiorari denied 93 S. Ct. 197, 409 U.S. 869.)

It did not limit or expand the power of Congress to tax under the Constitutional provisions authorizing Congress to lay and collect taxes, but, instead, merely provided for taxation of income without apportionment. (Brushaber v. Union Pacific R.R. Co. N.Y. 1916, 36 S. Ct. 236,240 U.S. 1, 60 L.Ed. 493; Simmons v. U.S., CA Md 1962 308 F2d 160. Pledger v. C.I.R. CA 5, 1981, 641 F2d 287, Certiorari denied 102 S. Ct. 504, 454, U.S. 964,70 L.Ed 2d 379.)

The Brushaber court ruled that the 16th Amendment separated the source (capital) from the income (profit), permitting the collection of indirect (excise) tax on income but leaving the source (wages, salary, compensation, fees for service, first-time commissions and capital) untouched and free of tax. If these things were to be taxed, it could only be construed as a direct tax, unquestionably in violation of the Constitution, making the entire tax on income void.

There still remains the question as to what is Constitutionally allowable as "income" which can be taxed, as Congress is not Constitutionally free to define "income" in any way it chooses. (Simpson v. U.S. D.C. Iowa 1976, 423 F. Supp 720, reversed on other grounds, Prescott v. Commissioner of Internal Revenue CA 561 F2d 1287.) Further,

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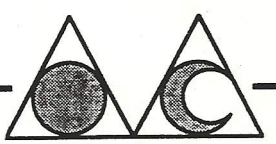
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the labels used do not determine the extent of the taxing power. (Simmons v. U.S. CA Mich 1961 294 F2d 160 - Richardson v. U.S. CA Mich 1961 294 F2d 593 Certiorari denied 82 S. Ct. 640, 360 U.S. 802, 7 L.Ed. 2d 549.)

To reiterate, the tax authorized under the original U.S. Constitution has not changed except to separate the source of "income" from the income, itself, permitting the collection of an indirect (excise) tax on income by leaving the source (wages, salaries, fees for service and first-time commissions) free of tax, (Brushaber supra) despite how some politicians interpret the 16th Amendment.

Note: The Brushaber court referred to an earlier case, Pollock v. Farmers Loan and Trust Co., 158 U.S. 601 (1895) which declared the Income Tax Act of 1894 unconstitutional, as its effect would have been to leave the burden of the tax to be born by professions, trades, employments, or vocations; and, in that way, what was intended as a tax on capital would remain, in substance, a tax on occupations and labor. This result, the court held, could NOT have been contemplated by Congress.

Note: There are also questions as to both the ratification and the constitutionality of the 16th Amendment, but neither has been ruled on by the U.S. Supreme Court , so why clutter up a good defense?

Since the general term "income" is not defined in the Internal Revenue Code, (U.S. v. Ballard 535 F2d 400 [1976]) the U.S. Supreme Court has ruled that Congress may not, by any definition it may adopt, conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives that its power can be lawfully exercised. (Eisner v. Macomber, 252 U.S. 1889 [1920].)

Since the Rules contained in the I.R.S. Manual, even if codified in the code of Federal Regulations, do not have the force and effect of law (U.S. v. Horne, CA Me. 1983, 714 f2D 206) and the power to promulgate regulations does not include the power to broaden or narrow what Congress intended, (Abbot, Proctor & Paine v. U.S. 1965 344 F2d 333, 170 Ct. Cl 408) and regulations cannot do what Congress, itself, is without power to do; they must conform to the Constitution. (C.I.R. v. Van Vorst, C.C.A. 1932, 59 F2d 677.)

Since the ultimate appellate court is the U.S. Supreme Court, we must look to them for a definite answer to the question of conformance and affirmation of our little secret that wages are not classified as income, which can be taxed.

> "Whatever may constitute income, therefore, must have the essential feature of gain to the recipient... . If there is not gain, there is not income... Congress has taxed INCOME not compensation."

The Court has recognized that..."*it becomes essential to distinguish between what is, and what is not, income'*"...Eisner v. Macomber, 252 U.S. 189 (1920) and determined that..."income" as used in the statute should be given a meaning so as not to include everything that comes in. The true function of the words "gains" and "profits" is to limit the meaning of the word "income". (So. Pacific v. Lowe, 238 F 847. U.S. Dist. Ct. S.D. N.Y. 1917; 247 U.S. 30 [1918].)

The Court determined that..."*the definition of income approved by the Court is: The gain derived from capital, from labor, or from both combined, provided it be understood to include profits gained through sale or conversion of capital assets.*" (Eisner Supra.)

"*Income within the meaning of the 16th Amendment and the Revenue Act means, gain...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.*" (Staples v U.S. 21 F. Supp 737. U.S. Dist Ct. ED PA, 1937.)

In the case of Lucas v. Earl, 281 U.S. 111 (1930), the U.S. Supreme Court stated unambiguously that..."*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 which produce the gain 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 prescribes or permits that compensation for personal services not be taxed as an entirety and not be returned by the individual performing the services. It is 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 gains, profits, and income derived from salaries, wages or compensation for personal service.*"

The Court ruled similarly in Goodrich v. Edwards, 255 U.S. 527 (1921) and in 1969, the Court ruled in Connor v. U.S. 303 F Supp 1187, that..."*whatever may constitute income, therefore, must have the essential feature of gain to the recipient. This was true when the 16th Amendment became effective, it was true at the time of Eisner v Macomber Supra, it was true under Section 22(a) of the Internal Revenue Code of 1938, and it is likewise true under Section 61(a) of the I.R.S. Code of 1954. If there is not gain,*

there is not income...Congress has taxed INCOME not compensation."

"...one does not derive income by rendering services and charging for them." (Edwards v. Keith, 231 F 111, 1916.)

Even at the state level, we find courts following the lead of the U.S. Supreme Court... *"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."* (Oliver v. Halstead, 196 VA 992; 86 S.E. 2d 858, 1955.) and: *"reasonable compensation for labor or services rendered is not profit."* (Lauderdale Cemetary Assoc. v. Matthews, 345 PA. 239; 47 A. 2d 277, 280, 1946.)

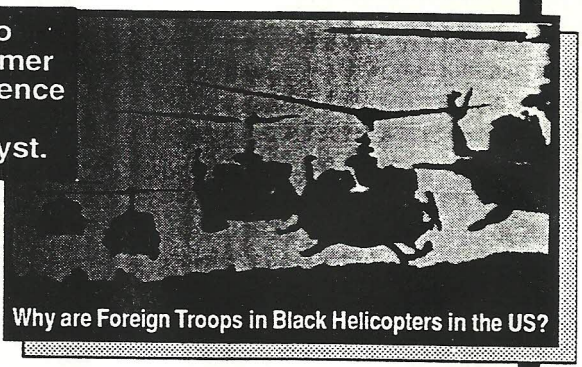
The above cases are not the undisputable law with respect to what is or is not income. We find the word "income" does not mean all monies that come into the possession of an individual, but profit or gain from the money one takes in, such as interest, stock dividends or profit from an employee's labor—but not from an individual's wages, which are compensation for his labor. This means that the average person in America, who has no large investments or riches upon which he receives interest, dividends, etc. in excess of the allowable amount, but merely works for wages, has income insufficient in amount to be required to file a tax return. ∞

In the beginning of a change, the patriot is a scarce man and brave, hated and scorned. When his cause succeeds however, the timid join him, for then it costs nothing to be a patriot.

Mark Twain

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