

IRS

address for your IRS district or specific agent

Certified Mail # ????

Date:

To Whom it may concern:

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

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

1. Please provide documentation as to what type of tax, "income" tax is ... i.e., is it a direct tax, (to be applied through apportionment) or an indirect tax, (to be applied uniformly) or some other type of tax, and please clarify, with Constitutional law.
2. Please provide where in the IR Code it makes me personally liable to file a 1040 form for "income" taxes... i.e. all those "liable" are required to file, but where in the code does it make me, personally "liable" for the "income" tax?
3. Please provide where in the IR Code the word "income" is legally defined.

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

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

Or. ..

Section 22 GROSS INCOME:

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

The word "income" is not defined in either place. If no IR Code definition source is available, please provide documentation defining the IRS's lawful definition of "income", and certify this so that I may determine if I actually have any lawful "income" which requires the filing of a 1040 return.

2. The United States Supreme Court states:

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

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

"Gross income and not 'gross receipts' is the foundation of income tax liability . . . The general term 'income' is not defined in the Internal Revenue Code . . . 'gross income' means the total sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources. 575 There is a clear distinction between 'profit' and 'wages' or 'compensation for labor.' Compensation for labor cannot be regarded as profit within the meaning of the law... The word profit is a different thing altogether from mere compensation for labor . . . The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who performed the services . . . is without support either in the language of the Act or in the decisions of the courts construing it and is directly opposed to provisions of the Act and to Regulations of the Treasury Department . . ." *U.S. v. Balard*, 535, 575 F. 2D 400 (1976); (see also *Oliver v. Halstead*, 196 VA 992; 86 S.E. Rep. 2D 858)

"Income within the meaning of the Sixteenth Amendment and Revenue Act, means 'gains' . . . and in such connection 'gain' means profit . . . proceeding from property, severed from capital, however invested or employed and coming in, received or drawn by the taxpayer, for his separate use, benefit and disposal . . . Income is not a wage or compensation for any type of labor." *Staples v. U.S.*, 21 F Supp 737

U.S. Dist. Ct. ED PA, 1937].

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

“Excises are taxes laid upon:

“(1.) the manufacture, sale or consumption of commodities within the country,

“(2.) upon licenses to pursue certain occupations,

and

“(3.) upon corporate privileges.”

Flint v. Stone Tracy Co., 220 U.S. 107, 31 S.Ct. 342, 349 (1911)

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

. . . [I]t is the privilege which is the subject of the tax and not the mere buying, selling or handling of goods.”

Flint, *Supra* at 151–152

Congressional testimony:

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

Based on the above cases, it appears that “income” is NOT wages, salary or compensation for services, but it the result of either corporate activity, or the fruit “derived from” principal or wages invested. Please provide documentation showing where this is incorrect and the Supreme Court and Congress is in error.

3. Please provide legal documentation, or sources where I may obtain this information, defining the following words as used in the Section 22 of the IR Code, and how they pertain to me in my wages in a private capacity:

a. Please provide documentation defining the words "gains, profits, and income," and please provide the legal differences between these words, and the words, "salaries, wages or compensation."

b. Please provide documentation defining the words "derived from"; i.e. please provide examples of how "income" is lawfully "derived from," salaries, wages or compensation?

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

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

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

I am unable to locate any "statute" which determines what the word "income" is, but quite a bit about what "income" is from court precedent and original intent. I am requesting documentation showing IRS's legal standing to be claiming I have lawful income in the way of my wages, salary or compensation for service.

5. 26 CFR 39.21-1 (1956) states ... "Meaning of net income. (a) The tax imposed by chapter 1 is upon income. Neither income exempted by statute or fundamental law, nor expenses incurred in connection therewith, other than interest, enter into the computation of net Income as defined by section 21."

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

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

6. 26 CFR 39.22(b)-1 states ... "Exemption--Exclusions from gross income. Certain items of income specified in section 22(b) are exempt from tax and may be excluded from gross income. These items however, are exempt only to the extent and in the amount specified. No other items may be excluded from gross income except (a) those items of income which are under the Constitution, not taxable by the Federal government;"

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

7. Please provide documentation that lawfully makes me a "taxpayer" as compared to a "non-taxpayer" per the following cases:

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

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

There must be some mechanism of law or involvement in some activity which would make me a lawful "taxpayer" but I have no such documentation or evidence.

8. IR Code 3401 (c) states: "Employee: For purposes of this chapter, the term 'employee' includes - (*see Attachment A for definition of "includes") an officer, employee, or elected official of the United States, a State, or any political subdivision hereof or the District of Columbia or any agency or instrumentality of anyone or more of the foregoing. The term 'employee' also includes an officer of a corporation."

Please provide documentation showing how this code section in any way applies to me personally as a private citizen of (name your state) in my private capacity.

9. IRC 26 - Section 22 - Definitions, states; "Trade or business: term 'trade or business' includes (*see Attachment A for definition of "includes") the performance of the functions of a public office."

Please provide documentation showing how my activities in employment for a private company, or self employed capacity, in any way falls under this code section as a "trade or business" subject to Title 26.

10. IR Code section (3121)(e) states: "United States: The term 'United States' when used in a geographical sense includes (*see Attachment A for definition of "includes") the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and

American Samoa.

Please provide documentation showing how this code section applies to me in my private capacity since I do not live in any of those geographical jurisdictions, and thus am NOT within said "United States".

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

12. Please answer the following under penalty of perjury:

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

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

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

Does the IRS admit or deny

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

1. My wages, salary or compensation for services are NOT lawful "income" according to the Congressional original intent, nor the Supreme and other court precedent.
2. I am NOT a "taxpayer" because there is no mechanism of law, OR activity I am involved in that would make me a "taxpayer" as compared to a "nontaxpayer."
3. There is NO IR Code section which makes me personally liable to file a 1040 or other tax return form.
4. That "income taxes" are indirect taxes subject to uniformity according to the Constitution, and are ONLY for those "made liable" through some taxable activity.
5. That "gains, profit and income" are NOT the same as "wages, salary or compensation", and belong to a different activity type other than employment of any kind.
6. That "income" taxation is meant for all those who have any employment with,

or working within the jurisdiction of, the federal government, and not for private, flesh and blood humans outside those areas.

These specific questions and conflicts have never been lawfully adjudicated under Due Process, in any court in the United States, outside hearsay and presumption by the IRS and the Courts... i.e. all cited cases the IRS provides to label these questions and positions as “frivolous” have NEVER been completely and adequately raised or presented in ANY of the cited courts, and therefore they cannot be used as “evidence” for a lawful position against these challenges. The cited cases herein have NEVER been overturned, so for the IRS to avoid these issues, or label them as frivolous based on hearsay and presumption, has no standing in law and is attempted fraud and coercion of the American people.

“The power to create [false] presumptions is not a means of escape from constitutional restrictions.” Heiner v. Donnan, 285, US 312 (1932) and New York Times v. Sullivan, 376 US 254 (1964).

“This court has never treated a presumption as any form of evidence.” A.C. Aukerman Co. v. R.L. Chaides Const. Co., 960 F.2d 1020, 1037 (Fed. Cir. 1992).

“[A] presumption is not evidence.” Del Vecchio v. Bowers, 296 U.S. 280, 286, 56 S.Ct. 190, 193, 80 L.Ed. 229 (1935).

“[A presumption] cannot acquire the attribute of evidence . . .”) New York Life Ins. Co. v. Gamer, 303 U.S. 161, 171, 58 S.Ct. 500, 503, 82 L.Ed. 726 (1938).

I look forward to receiving the requested documentation, within the lawful time allotted⁽¹⁾, so I may better understand the laws and how to be sure I comply with all applicable laws that apply to me personally, and that my Constitutional and Civil rights are not being violated and that the law is being upheld correctly.

If I do not receive a response, and rebuttal to each and every claim made, within 60 days, this will be prima facie evidence that my conclusions are correct.

Sincerely,

Name
address

¹ Agencies are required to respond to a FOIA request within 20 business days, excluding Saturdays, Sundays, and legal holidays. For the Privacy Act, the time limit is 10 business days. This period does not begin until the request is actually received by the FOIA office.

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

CC: Specific IRS-agent/officer, if any. You could send a copy to your state senators and reps as well, for legal notice under 18 U.S.C.

Notary Witness

I declare under penalty of perjury that (Your name) appeared before me with picture identification, and acknowledged this 8 page document addressed to the IRS under FOIA for legal answers to IR Code and taxation issues on Date:

Printed name

Signature

SEAL