

Research and Conclusions of Floyd Wright, C.P.A.

California Public Accountant Floyd Wright (deceased) prepared this 8 page letter in which he concludes, "I might summarize the foregoing with the following statement . We can research the Constitution, Supreme Court cases, the Internal Revenue Code and even the dictionary and each will force us to conclude the present income tax is immoral, illegal and invalid. There, we cannot be liable and filing is unnecessary." Whether one agrees or disagrees with Mr. Wright's various contentions, what kind of law leaves itself open to such apparently preposterous statements by a Public Accountant who is willing to have such a letter notarized and widely circulated? What in heaven's name is going on here?

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Dear Mr. _____

This is in response to your inquiry regarding my discoveries and conclusions pertaining to the filing of income tax returns and the mysteries in the Internal Revenue Code.

My qualifications and experience in this field are varied. I am licensed to practice as a Public Accountant (Registration No. 20804) and Real Estate Broker in California. I fought off a two felony indictment by the Internal Revenue Service and came out victorious. I have written about this experience and the discoveries I made during the battle (Beat The IRS? I Did!) and published other tax writings as well. For about twenty years I have been active in researching the Internal Revenue Code and court cases pertaining to this subject.

I have concluded from all these experiences and research that no individual is obligated to file a tax return (1040 form), regardless of the amount or type of income received. An explanation of the reasons for this conclusion will follow.

How can I make such an opinion that is out of step with what most Americans are doing each year? Can one hundred million Americans, who are filing income tax returns, be wrong? Such questions are valid and need an answer.

To properly answer these questions, a bit of tax history needs to be presented. In 1894 we had an income tax in effect, supported by statutory law. In 1895 this law was challenged up to the Supreme Court. The Supreme Court declared this income tax to be unconstitutional, because it was a direct tax being applied without apportionment. An excerpt from this case follows:

"The tax imposed by sections twenty-seven to thirty-seven, inclusive of the act of 1894, so far as it falls on the income of real estate and of personal property, being a direct tax within the meaning of the Constitution, and therefore, unconstitutional and void because not apportioned according to representation, all those sections, constituting one entire scheme of taxation, are necessarily invalid." Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601, 637

Apportionment was one of the tax limitations listed in our constitution (Article I, Sec. 9, paragraph 4). The only other type of taxes permitted by our constitution were duties, imposts and excises. However, these also had a restriction. They had to be uniform throughout the U.S. See Article I, Sec. 8, paragraph 1 of the U.S. Constitution. Since the income tax is not apportioned nor is it uniform it fails to satisfy the constitutional requirements for either a direct or an excise tax. Therefore, it is obviously unconstitutional.

The foregoing would seem to be adequate reasons for not filing and paying income tax. So, why is nearly everyone filing and paying? The answer to this is somewhat complicated.

The XVith Amendment to our Constitution was proposed in July 1909. It was, allegedly, ratified in 1913. This amendment stated as follows:

"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." U.S. Constitution; XVith Amendment

The average person would assume this amendment overcame the restriction of levying direct taxes without apportionment. However, an amendment which contradicts a portion of the constitution is invalid, unless it contains a section voiding the contradictory terms of the constitution. The XVith amendment contained no such paragraph. Furthermore, the Supreme Court in the case of Brushaber v. Union Pacific Railroad Co., 240 U.S. 1 (1915) verified this statement by saying Congress was given no new power of taxation as a result of the passage of the XVith amendment.

We might ask, if they were given no new taxation power, what was the purpose of the XVith amendment? The only answer possible to this question would be, the amendment was needed as a "red herring" in order to con the public into thinking the XVith amendment gave constitutional approval of income tax collection. Besides, it has been proven the XVith amendment was not properly ratified by a single state. See The Law That Never Was, by Beckman & Benson.

Most everyone can now see there is no valid legal support for collecting the, so called, income tax. You might now pose the question of why haven't the judges put an end to this illegal process? So, this point will be discussed.

Our founding fathers wisely set up three branches of government. This was intended to cause blockage of improper restrictions on the citizens via veto powers. These three branches were independent of each other and they do not interfere with each other's activities. For instance, the judiciary will not voluntarily pronounce some statute unconstitutional. There must be a challenge by a citizen forcing the judiciary to expound on the merits of a piece of legislation. The judges do not want to be accused of interfering with the legislative process, without cause. The near religious following of this rule, coupled with the lack of a proper challenge of the income tax amendment has kept the income tax in effect for generations.

There is one other factor which has aided greatly in the perpetration of the income tax fraud. This clever move consisted in having every citizen sign the 1040 form or return under penalties of perjury. When you sign, under penalties of perjury, you are, in effect, stating you are a "taxpayer" per Section 7701 (a) 14 of the Internal Revenue Code. And you are stating all items on the return are true. Your signature, in this fashion, eliminates you as a possible challenger. You have waived the right of challenge.

Even though the Commissioners of Internal Revenue had all citizens well under control, they felt another strengthener was needed. So, they managed to get Congress to insert some penalty sections in the code. This was to provide prison sanctions for those who might challenge the validity of the income tax by not

filing etc. After the passage of these sanctions, they concluded the citizens were sufficiently controlled so as to pose little danger to the system. Only in recent years have some brave souls begun to suggest methods of overcoming these tyrannical methods of extracting money from the working public of this country.

To summarize the foregoing, we can say, the constitution allows two types of taxes. But the income tax does not fulfill either of the restrictions contained. The judicial department will not notify the public of unconstitutional laws, unless properly forced to make such a decision. And there are laws providing sanctions for those who make mistakes in challenging their law. So, it is obvious a challenging citizen must be careful.

In addition to the foregoing characteristics, which cause the income tax to be invalid & illegal, there are additional constitutional reasons. The 1st, 4th, 5th, and 13th Amendments all prohibit such seeming demands as are made by the Internal Revenue Service.

A part of the First Amendment states:

"Congress shall make no law... abridging the freedom of speech, ...". 1st Amendment; U. S. Constitution

The freedom of speech includes the right not to speak, as well as to speak. It also includes vocal and written speech. Compulsory filing of a 1040 form is a violation of this amendment.

A part of the Fourth Amendment States:

"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated ...". U.S. Constitution, 4th Amendment

Forcing you to divulge all the ramifications of your money making activities is a violation of your person and effects. To prove this statement, ask yourself, would you make your activities known if there was no alleged law demanding you do it?

A part of the 5th Amendment states:

"No person ... shall be compelled in any criminal case to be a witness against himself, ...". U.S. Constitution: 5th Amendment

And a Supreme Court case has stated:

"The information revealed in the preparation and filing of an income tax return is, for purposes of Fifth Amendment analysis the testimony of a "witness", ..."
Garner v. United States, 424 U. S. 647, 656

But the Justice Department will use your 1040 form, forced out of you by threat of jail, to convict you should you become too objectionable. Obviously such procedures are a violation of the Fifth Amendment prohibition.

The Thirteenth Amendment states in part:

"Neither slavery nor involuntary servitude, ... shall exist within the United States, ..."
U.S. Constitution; Thirteenth Amendment

Isn't the forced filing of a 1040 form involuntary servitude? Of course it is! No one in the U. S. would fill out such a form, if there was no jail sanction imposed for failure to do so.

Your next question would probably be, "How does the government get around such obvious restrictions? They accomplish it very easy. They just let you "volunteer" the information. They say the threat of jail does not force you to do anything.

All of the foregoing should make the invalidity of the income tax understandable for all persons. So, how did those in power manage to fool 100 million people and cause them to obediently file returns? They did it with extremely clever and tricky language in the Internal Revenue Code; along with some excellent public relations work. Now I will point out some of the language which tricks the people into sending in generous amounts of their funds. Later the public relations activity will be discussed.

Does the Internal Revenue Code specifically state that you, an individual is liable for income tax payments? No, it does not. And if you should get an answer to this question from an IRS agent, it would be that Section 6012 imposes such a liability.

Chapter 61 of the Code, which contains Section 6012, also contains other sections of interest. These two sections are 6001 and 6011. Let us take a look at these sections.

Sec. 6001. Notice or regulations requiring records, statements, and special returns.

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe...

Sec. 6011. General requirement of return, statement, or list.

(a) General rule.

When required by regulations prescribed by the Secretary, any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary.

Each of these sections emphasize that a person must be liable for the tax before the individual is obligated to consult Section 6012 to find out how much revenue it is necessary to receive to be required to file. But the question arises, is there any section in the Internal Revenue Code indicating how an individual becomes liable? There is no such section. And I conclude, if there is no section stating the requirements for liability, the individual can logically assume no liability exists. Therefore, the conclusion must be---he/she is not liable for income tax and filing is unnecessary.

Section 6012 is really a section designating those who are not required to file, even though they had some revenue. However, it was cleverly worded so as to cause the unwary to conclude everyone had to file if he/she received a certain amount of revenue.

Section 6012 has additional clever wording, not apparent to the casual reader. The beginning of this section follows:

Sec. 6012. Persons required to make returns of income.
(a) General rule.

Returns with respect to income taxes under Subtitle A shall be made by the following:....

Please note the word "required" was used in the heading but not in the text of the law itself. The text contains the words "shall be made". Why the change? If the word "required" was used, it would be mandatory for each of us to file. And this could be challenged as being unconstitutional. Congress anticipated this problem. So they changed it to "shall be made" and this is permissive rather than mandatory, if the intent of Congress is thwarted or the statute is made unconstitutional by mandatory interpretation. This is another example of the judiciary avoiding a conflict with the legislative branch of the government. They just twist the meaning so as to accomplish their purpose. This permissive meaning of the word "shall" has been upheld by nearly every court in all the states. A number of examples follow:

"The mandatory word "shall" may often be treated as merely permissive, when necessary to sustain a statute or accomplish its purpose.
People ex rel. Barone v. Fox 129 N. Y. S. 646; App. Div. 611

"Presumption is that word "shall", in ordinance, is mandatory; but, where it is necessary to give effect to legislative intent, word will be construed as "may".
City of Colorado Springs v. Street 254 P.440, 441; 81 Colo 181

"Elections Code section providing that court in election contest "shall" file findings and conclusions within ten days of submission thereof is not mandatory, notwithstanding statutory definition of quoted word."
Garrison v. Rourke, 196 P 2d 884, 889; 32 Cal. 2d 430

"Whether "shall" as used in any statute carries a mandatory or merely directory implication is to be determined by the legislative intent." City of Seattle v. Reed, 107 P 2d 239, 2240; 6 Wash. 2d 186

"The word "shall" may be construed as permissive where the subject matter requires." Murray v. Edes Mfg. Co., 25 N. E. 2d 746, 747; 305 Mass. 311

"The use of the words "may" and "shall" in a statute is not controlling on questions whether statute is mandatory or directory, since either word may be held mandatory or directory, and courts will consider language used, subject-matter, importance of provisions, and object intended to be secured, and ascertain legislative intent." State v. Christianson, 229 N.W. 313, 316; 179 Minn. 337

Many more states' courts could be quoted. But the comments from the above six states should be adequate to prove the point.

Trying to make something certain out of a written statement by lawyer judges or non-judge lawyers is somewhat like trying to catch a greased pig. About the time you think you have the pig under control, it wiggles free and runs away. The same applies with legal writings, whether by private lawyers (most of them), Congressional lawyers or judicial lawyers. Therefore, the point to be learned is to be suspicious of everything written by a lawyer. And keep in mind, the Internal Revenue Code was written by lawyers.

The paperwork included with the 1040 form they send you at the beginning of the year has some clever wording also. This contains references to the Privacy Act and the Paperwork Reduction Act. And their reference to these indicates they know they have a responsibility to the public. How do they fulfill this obligation? Not very well. They have worded this information so as to convince the trusting citizen there is an obligation to file. This document states in part as follows:

"Our legal right to ask for information is Internal Revenue Code sections 6001 and 6011 and their regulations. They say you must file a return or statement with us for any tax you are liable for. Your response is mandatory..."

Note, they use the phrases "must file" and "is mandatory", tending to cause you to feel obligated. However, also note, there is a comment stating "any tax you are liable for". The presumption is that everyone is liable for some amount of tax. But you cannot find any sections in the code stating how you become liable. And they conveniently omit any comment about this. The reason there are no sections stating liability is because you could challenge the statement for unconstitutionality. The reason---the, so called, income tax is not apportioned nor equal, as demanded by our constitution.

For the purpose of emphasis, consider the following bit of confusion. Chapter 61 of the Code, which contains Sections 6001, 6011 and 6012, begins by breaking down the information into two parts---Subchapters (A & B). Then Subchapter A is divided into Part I and Part II. Part I contains Section 6001 and Part II contains Sections 6011 and 6012. Then when you read Section 6012, you find the following statement: "Returns with respect to income taxes under subtitle A shall be made by the following: ...". Subtitle A has nothing to do with Chapter 61. It is a reference to the beginning of the Code, rather than to Sections 6001 or 6011. If you diligently refer to the beginning of the Code, you find that Subtitle A is divided into Subchapters A through Y. Are you thoroughly confused? That was what the writers desired. I will end this example of vagueness by saying all the Subchapters A through Y apply to those who are liable. So the diligent person is back to where he/she started. The search for knowledge has been successfully thwarted. The IRS knows, if you become knowledgeable, you will quit filing and paying. So they confuse you.

I mentioned earlier that fooling the public resulted from excellent public relations work. What are some of the ways they accomplish this result?

When a young man or woman obtains his/her first job, the employer hands this person a W-4 form to fill out. And they are notified that it must be filled out to continue working. The young person looks it over and having been "brainwashed" by their father, mother and the media, says to themselves; "Oh yes, this is for income tax purposes". Everyone who fills out a W-4 form automatically receives a 1040 form at the beginning of the next year. This is accompanied by instructions

on how to properly fill it out. This is probably the prime method of influencing the new worker. But there are other methods used to sell the income tax to the trusting public.

At the beginning of the calendar year there appear articles in the newspapers, commentaries on the radio and TV that are extensive in nature. They all warn the reader or listener to begin early etc. Articles appear on how to minimize your tax and maximize your deductions. But there is never a story that might challenge the validity of the income tax collection system. The validity is presumed. Most of these stories were probably authored by employees of the Internal Revenue Service. Anyway it has been extremely effective. And it has fooled the public for years.

I have used the U. S. Constitution, the Supreme Court decisions, and the Internal Revenue Code to point out that individuals have no liability for the income tax. And because of this lack, they have no requirement to file a tax return.

There is a rather simple method of checking up on the validity of the income tax. And that is to check Black's Law Dictionary. Income is defined as, "The return in money from one's business, labor or capital invested; gains, profits, salary, wages, etc.". Please note you must have a return in "money". What is money? Let us check the same dictionary. Money is defined as; "In the usual acceptation it ... does not embrace notes, bonds, evidences of debt, ...". Bouvier's Dictionary restricts this even more. It states, money as being, "Gold and Silver coins". Take a look at some of your "money". What does it state on the face of the paper? It says Federal Reserve Note at the top, right? Black's dictionary excludes notes from the definition of money. The paper does not so state, but it is a "circulating evidence of debt". This is also excluded in Black's definition. Therefore all of you who accepted Federal Reserve Notes as payment for your services did not receive any money. So you did not receive any "income" upon which an income tax could be applied. So we can conclude from this too that you have no liability and filing a 1040 form is not required.

We must remind ourselves that the perpetrators of this fraud have a sanction (failure to file---Sec. 7203) to be applied against those who object by not filing. So what is one to do to avoid this problem?

You do just as you have done in asking my opinion. And you obtain or at least request opinions from other accountants and lawyers. By following the advice of those who have made a study of the issues and who have been educated in such matters, you eliminate willfulness. And this is a necessary requirement of a criminal act.

It is my belief that a person with a portfolio of opinions such as this will be considered too much of a risky case to indict. The IRS and Justice Department will probably look for easier victims.

There are other reasons for the invalidity of the income tax. For instance Article I; Sec. 8; paragraph 1 of the constitution states, "The Congress shall have the power to lay and collect taxes.". But the IRS is not a part of Congress. Therefore, they really do not have the power to collect. However, the foregoing should be sufficient to convince you there is something fraudulent about the present income tax.

I might summarize the foregoing with the following statement. We can research the Constitution, Supreme Court cases, the Internal Revenue Code and even the dictionary and each will force us to conclude the present income tax is immoral, illegal and invalid. Therefore, we cannot be liable and filing is unnecessary.

I hope this information gives you a firm basis on which to make a judgment as to what course you wish to take for your future.

Sincerely,

Floyd A. Wright

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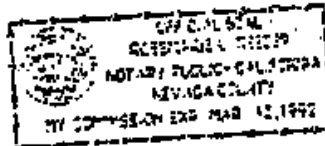
Dated: April 11, 1991

State of California)

) ss.

County of Nevada)

SUBSCRIBED AND SWORN to before me, the undersigned, a Notary Public in and for said County and State, this 11th day of April 1991.



Rosemarie Reeder
Notary Public in and for said County and State