

THE TRUTH ABOUT FRIVOLOUS TAX ARGUMENTS

January 1, 2010

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ratified by the requisite number of states and has become part of the Constitution is conclusive upon the courts,” the court upheld Stahl’s conviction for failure to file returns and for making a false statement.

United States v. Foster, 789 F.2d 457 (7th Cir. 1986), cert. denied, 479 U.S. 883 (1986) – the court affirmed Foster’s conviction for tax evasion, failing to file a return, and filing a false W-4 statement, rejecting his claim that the Sixteenth Amendment was never properly ratified.

Knoblauch v. Commissioner, 749 F.2d 200, 201 (5th Cir. 1984), cert. denied, 474 U.S. 830 (1986) – the court rejected the contention that the Sixteenth Amendment was not constitutionally adopted as “totally without merit” and imposed monetary sanctions against Knoblauch based on the frivolousness of his appeal. “Every court that has considered this argument has rejected it,” the court observed.

Stearman v. Commissioner, T.C. Memo. 2005-39, 89 T.C.M. (CCH) 823 (2005), aff’d, 436 F.3d 533 (5th Cir. 2006), cert. denied, 547 U.S. 1207 (2006). – the court imposed sanctions totaling \$25,000 against the taxpayer for advancing arguments characteristic of tax-protester rhetoric that have been universally rejected by the courts, including arguments regarding the Sixteenth Amendment. In affirming the Tax Court’s holding, the Fifth Circuit granted the government’s request for further sanctions of \$6,000 against the taxpayer for maintaining frivolous arguments on appeal, and the Fifth Circuit imposed an additional \$6,000 sanctions on its own, for total additional sanctions of \$12,000.

6. Contention: The Sixteenth Amendment does not authorize a direct non-apportioned federal income tax on United States citizens.

Some assert that the Sixteenth Amendment does not authorize a direct non-apportioned income tax and thus, U.S. citizens and residents are not subject to federal income tax laws.

The Law: The constitutionality of the Sixteenth Amendment has invariably been upheld when challenged. And numerous courts have both implicitly and explicitly recognized that the Sixteenth Amendment authorizes a non-apportioned direct income tax on United States citizens and that the federal tax laws as applied are valid. In United States v. Collins, 920 F.2d 619, 629 (10th Cir. 1990), cert. denied, 500 U.S. 920 (1991), the court cited to Brushaber v. Union Pac. R.R., 240 U.S. 1, 12-19 (1916), and noted that the U.S. Supreme Court has recognized that the “sixteenth amendment authorizes a direct nonapportioned tax upon United States citizens throughout the nation.”

Relevant Case Law:

United States v. Collins, 920 F.2d 619, 629 (10th Cir. 1990), cert. denied, 500 U.S. 950 (1991) – the court found defendant’s argument that the Sixteenth Amendment does not authorize a direct, non-apportioned tax on United States citizens similarly to be “devoid of any arguable basis in law.”

In re Becraft, 885 F.2d 547 (9th Cir. 1989) – the court affirmed a failure to file conviction, rejecting the taxpayer’s frivolous position that the Sixteenth Amendment does not authorize a direct non-apportioned income tax.

Lovell v. United States, 755 F.2d 517, 518 (7th Cir. 1984) – the court rejected the argument that the Constitution prohibits imposition of a direct tax without apportionment, and upheld the district court’s frivolous return penalty assessment and the award of attorneys’ fees to the government “because [the taxpayers’] legal position was patently frivolous.” The appeals court imposed additional sanctions for pursuing “frivolous arguments in bad faith.”

Broughton v. United States, 632 F.2d 706 (8th Cir. 1980), cert. denied, 450 U.S. 930 (1981) – the court rejected a refund suit, stating that the Sixteenth Amendment authorizes imposition of an income tax without apportionment among the states.

United States v. Hockensmith, 104 A.F.T.R.2d 2009-5133, 2009 WL 1883521 (M.D. Pa. Jun. 30, 2009) – the court rejected the taxpayer’s arguments that no law created an income tax and that the taxpayer was outside the government’s taxing authority. The court held that the Sixteenth Amendment allows for the taxation of income and eliminates the requirement for apportionment among the states.

Maxwell v. Internal Revenue Service, 2009 WL 920533, 103 A.F.T.R.2d 2009-1571 (M.D. Tenn. Apr. 1, 2009) – the court found that the taxpayer’s arguments to have been “routinely rejected,” principally that there is no law that imposes an income tax nor is there a non-apportioned direct tax that could be imposed on him as a supposed non-citizen.

Stearman v. Commissioner, T.C. Memo. 2005-39, 89 T.C.M. (CCH) 823 (2005), aff’d, 436 F.3d 533 (5th Cir. 2006), cert. denied, 547 U.S. 1207 (2006) – the court imposed sanctions totaling \$25,000 against the taxpayer for advancing arguments characteristic of tax-protester rhetoric that has been universally rejected by the courts, including arguments regarding the Sixteenth Amendment. In affirming the Tax Court’s holding, the Fifth Circuit granted the government’s request for further sanctions of \$6,000 against the taxpayer for maintaining frivolous arguments on appeal, and the Fifth Circuit imposed an additional \$6,000 sanctions on its own, for total additional sanctions of \$12,000.

7. Contention: The Sixteenth Amendment does not authorize a direct non-apportioned federal income tax on United States citizens.

Some individuals and groups assert that the Sixteenth Amendment does not authorize a direct non-apportioned income tax and, thus, U.S. citizens and residents are not subject to federal income tax laws.

The Law: The constitutionality of the Sixteenth Amendment has invariably been upheld when challenged. Numerous courts have both implicitly and explicitly recognized that the Sixteenth Amendment authorizes a non-apportioned direct income tax on United States citizens and that the federal tax laws are valid as applied. In Notice 2010-33, 2010-17 I.R.B. 609, the IRS warned taxpayers of the consequences of attempting to pursue a claim on these grounds.

Relevant Case Law:

Young v. Commissioner, 551 F. App'x 229, 203 (8th Cir. 2014) – rejecting as "meritless" and "frivolous" Young's arguments that the income tax is an unconstitutional direct tax, the 8th Circuit imposed \$8,000 in sanctions.

Taliaferro v. Freeman, 595 F. App'x 961, 962–63 (11th Cir. 2014) – the Eleventh Circuit rejected as frivolous the taxpayer's argument that the Sixteenth Amendment authorizes the imposition of excise taxes but not income taxes, and ordered sanctions against him up to and including double the government's costs.

In re Becraft, 885 F.2d 547, 548–49 (9th Cir. 1989) – the Ninth Circuit, rejecting the taxpayer's frivolous position that the Sixteenth Amendment does not authorize a direct non-apportioned income tax, affirmed the failure to file conviction.

Lovell v. United States, 755 F.2d 517, 518–20 (7th Cir. 1984) – the Seventh Circuit rejected the argument that the Constitution prohibits imposition of a direct tax without apportionment, upheld assessment of the frivolous return penalty, and imposed sanctions for pursuing "frivolous arguments in bad faith" on top of the lower court's award of attorneys' fees to the government.

United States v. Jones, 115 A.F.T.R.2d (RIA) 2015-2038 (D. Minn. 2015) – the court rejected as frivolous the taxpayer's arguments that individual income tax is unconstitutional because it is "a direct tax which must be apportioned among the several states," noting that "[i]t is well-established that the Sixteenth Amendment authorizes the imposition of an income tax without apportionment among the states."

Maxwell v. IRS, No. CIV. 3090308, 2009 WL 920533, at *2 (M.D. Tenn. Apr. 1, 2009) – the court characterized the taxpayer's arguments that there is no law that imposes an income tax, nor is there a non-apportioned direct tax that could be imposed on him as a supposed non-citizen as "routinely rejected."

Other Cases:

Broughton v. United States, 632 F.2d 706 (8th Cir. 1980); *George v. United States*, No. 5:21-CV-01187-EJD, 2022 WL 562758 (N.D. Cal. Feb. 24, 2022); *United States v. Troyer*, 113 A.F.T.R.2d (RIA) 2014-387 (D. Wyo. 2013); *United States v. Hockensmith*, 104 A.F.T.R.2d (RIA) 2009-5133 (M.D. Pa. 2009); *Stearman v. Commissioner*, T.C. Memo. 2005-39, 89 T.C.M. (CCH) 823 (2005).