

# ***SUBJECT-MATTER JURISDICTION***

## **OF THE UNITED STATES COURTS**

**REQUIRES THREE ELEMENTS TO EXIST, IN ORDER TO BE LAWFULLY *TAKEN* BY A U.S. COURT, OVER A *CLAIM* FOR TAX:**

- (1) The U.S. Constitution MUST grant a specific *power to tax* for Congress to *exercise* in its operations;**
- (2) The U.S. Constitution MUST provide an *enabling enforcement clause* for Congress to be authorized to write law, to enforce by law the *power* granted in (1);**
- (3) U.S. Congress must actually enact legislation to pass a law imposing and enforcing the specific *taxing power* granted in (1) above, and made *enforceable* in (2).**

**... If ANY of the three required elements is absent, *subject-matter jurisdiction* does NOT exist.**

To see a clear example of how the Constitution grants Congress its powers to tax, together with how those granted taxing powers are also specifically limited, we need only look to **Article I, Section 8, clause 1**, which plainly and clearly states:

*“The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;”*

Here we plainly have three separate powers to tax that are granted by the original Constitution, *i.e.*: the powers to tax by *Impost, Duty and Excise*. And the stated constitutional *limitation* is that “*all duties, imposts and excises shall be uniform throughout the United States*”

And now, to see how the U.S. Congress is also **constitutionally authorized to write law to enforce** those granted taxing powers, we need only look to the original “*Necessary and Proper*” *enabling enforcement clause* of Article I, Section 8, Clause 18, which states:

*“To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.”*

Both of these constitutional grants of authority, to tax, and to write law to enforce the taxin power granted, are both essential, required, indispensable elements of properly establishing the ability of any federal court to take a fully granted subject matter jurisdiction of the court over a specific claim for tax made by the IRS or DOJ.

The third required element subject matter jurisdiction is of course, that Congress write a law that *exercises* the granted taxing *power* and imposes an authorized tax, that is also constitutionally authorized to be enforced by additional statutes enacted by Congress beyond the statute that imposes the tax.

# ***personal jurisdiction* of the federal courts to enforce Income Tax Law**

## **U.S. Constitution**

provides for the Federal power to indirectly tax **INCOME**

### **INDIRECT POWERS**

are established under

### **Article I, Section 8, cl. 1**

**but only as an**

**Impost** or **Duty** or **Excise**  
(on foreigners (on exports) (on commodities(ATF), & imports) corporations, products, tax collections, etc.)  
and the **16th Amendment** says this includes **ALL income** derived from **these taxable** activities.  
**BUT NO OTHERS!**  
all enforced under Article I, Section 8, clause 18

The "**Necessary and Proper**" enforcement clause

But **NONE OF THESE enforceable indirect TAXES, TOUCH**

**We the People's RIGHT TO WORK**

(outside of ATF biz, petroleum fuels, etc., so no ***personal jurisdiction*** exists !)

(so **all civil actions** for income tax under Article I should be **dismissed** under Fed.R.Civ.P. Rule 12(b)(2), **unless** you are a **person involved** in **ATF** or one of these other **excise taxable activities**, and **NOT** many people are!).

*personal jurisdiction* of the federal court, (**lacking** under FRCP R. 12(b)(2)), is necessary for the enforcement of the indirect taxes authorized under Article I; and is based **only** on your **participation** in the identified taxable activities. **Where no taxable activity is conducted by you, no personal jurisdiction exists over your person to allow any federal court to enforce any income taxing powers under Article I upon your wages.**

**NO personal jurisdiction exists** for the federal courts to enforce (under Article I) **an indirect income tax** on the **wages** derived from the **simple exercise** of the American citizen's **Right to Work**, because the taxation of all wages is **not part** of the **indirect taxation powers** of Article I !

# subject-matter jurisdiction of the federal courts to enforce Tax Law

## under the U.S. Constitution

The Supreme Court says the tax on income is inherently indirect  
see: *Brushaber & Baltic Mining* (1916)

which provides for the Federal power of TAXATION both

as **DIRECT** & **INDIRECT** taxation.

under the:

**16th Amendment** & Art I, Sec 2, cl. 3 & **Art. I, Section 8, cl. 1**  
but only as an

where the tax is: UN-apportioned and with no enforcement clause to authorize Congress to write law.  
**SO THIS IS NEVER MADE ENFORCEABLE !**

So **NO law can be lawfully** written by Congress to enforce this alleged direct taxing power !

**BUT, THIS IS WHAT THE I.R.S. administratively enforces!**

Art. I direct tax | **Impost** or **Duty** or **Excise**  
is apportioned | (on foreign activity and imports) | (on exports) | (on corporations, commodities (ATF), tax collections, & products.)  
to the 50 states | for collection | not to us, and **All the Article I taxing powers are**

**enforced under the Article I, Section 8, clause 18.**  
"Necessary and Proper" enforcement clause

But **NONE OF THESE enforceable INDIRECT TAXES, TOUCH**

**We the People's RIGHT TO WORK**

(**ALL dismissed** under F.R.C.P. Rule 12(b)(1)) (neither **directly** nor **indirectly** - SO: no personal jurisdiction exists !)  
(**They're unenforceable in federal court !**) (so **all Art. I tax claims** get **dismissed** under Fed.R.Civ.P. Rule 12(b)(2))

subject-matter jurisdiction must be **taken under an authorized statute** of the USC, or it is **lacking** under FRCP R.12(b)(1) subject-matter jurisdiction of the court, derives from a statute that **Congress is constitutionally authorized to write.**

Where **no law from Congress is authorized** by the 16th Amendment, **no jurisdiction exists** for any federal court to enforce any alleged **new** taxing power, **beyond that already established** under Article 1, Section 8, clauses 1 and 18 !

**NO subject-matter jurisdiction exists** for the federal courts to enforce a **direct** income tax under the 16th Amendment on the **wages** derived from the **simple exercise** of the **Right to Work !**

## ***subject-matter jurisdiction of the Federal Courts Does Not Exist***

The federal courts **lack** *subject-matter jurisdiction* to enforce the administrative claims of the IRS for personal income tax that are assessed and demanded as a function of their *operational practice*. This is true because of the nature of the IRS' operational *practices*, which enforce the collection of the federal personal income tax from the American citizens as a *direct unapportioned* tax under *alleged* authority of the 16th Amendment, rather than under the legitimate authority of Article I, Section 8, clauses 1 and 18 of the U.S. Constitution.

The lack of *subject-matter jurisdiction*, as any attorney will tell you, is **fatal** to a civil action filed by a Plaintiff (in this case, the United States); - as a court, without *subject-matter jurisdiction* must dismiss the complaint, with prejudice, immediately, - lacking judicial authority to entertain any action that the court is not given a specific **enforceable** authority over, by both the Constitution and the statutes of the U.S.C., *i.e.*: establishing the *subject-matter jurisdiction of the court* to entertain the civil action.

In this case we are talking about **all** civil and most criminal actions (prosecutions) filed by the United States DOJ to pursue enforcement in the federal courts of the income tax under the 16th Amendment. I can **irrefutably prove** the federal courts **lack** the *subject-matter jurisdiction* to entertain, uphold, and enforce these claims and complaints (and tax) under that alleged authority. This information **completely destroys** the IRS and exposes the entire history of the federal courts' income tax enforcement as a **complete and total fraud**. Every single individual person who has ever lost a home, a car, a paycheck, a bank account, their wife, or their life, has been cheated out of their property (and their lives) by an IRS and or a federal court that had no real power to act under any *subject-matter jurisdiction* that can be legitimately and lawfully taken by the court, under an enforceable legal authority that was created by the 16th Amendment, for **irrefutable lack** of any *enabling enforcement clause* in the Amendment that would constitutionally **authorized** the Congress to write any law under that Amendment, to enforce any taxing power allegedly newly created thereunder !

Because the IRS claims, and argues, effectively **admitting** in all of its correspondence letters with taxpayers, that they are pursuing the enforcement of the federal personal income tax under alleged authority of the 16th Amendment as an *unapportioned direct* tax; - these claims and this administrative *practice* consequentially strips the federal courts of the *subject-matter jurisdiction* necessary to entertain any subsequently filed civil enforcement actions to uphold the tax assessed or claimed owed, **because there is no enabling enforcement clause** in the 16th Amendment that would authorize Congress to write any law or enforcement statutes, to enforce any tax, or new taxing power, allegedly created under the Amendment. If Congress is not constitutionally authorized to write any statutes to enforce the power alleged created, the federal courts cannot take a *subject-matter jurisdiction* under a statute, over the civil action, to enforce the claim made in the court based on that alleged power; - because the federal courts are courts of limited powers, and of a limited jurisdiction, that only authorizes the **enforcement** in the federal courts of *constitutionally authorized, written law* of the United States Code (U.S.C.). The federal courts are not empowered to, and cannot, enforce a particular political philosophy, or a religion, or set of beliefs, or ideas, or even a *de facto practice*, that is not written in or supported by a *de jure* administration of the law, **nor** is ever *constitutionally made enforceable*. Only the authorized written law may be used to establish the *subject-matter jurisdiction* of the federal courts over a civil action. Nothing else. And the federal courts must take their *subject-matter*

*jurisdiction* over a civil action, under a *constitutionally authorized* statute of the United States Code (Title 26 of the USC).

The ability of the courts to take jurisdiction is **completely destroyed** because the IRS claims in all of its correspondence with taxpayers, that they are pursuing the enforcement of the income tax **under the 16th Amendment**, and **not under Article I**, Section 8, as an *impost, duty, or excise*; - as was held by the Supreme Court in 1916 to be the *constitutional* application of the income taxing powers granted under the 16th Amendment (see *Brushaber v. Union Pacific*, 240 US 1 (1916); *Stanton v. Baltic Mining Co*, 240 US 103 (1916); *Steward Mach. Co. v. Collector*, 301 U.S. 548 (1937), and which *indirect* taxing powers are *constitutionally made enforceable*, by laws from Congress, under the *Necessary and Proper enforcement clause* of Article I, Section 8, clause 18.

**But**, there is **irrefutably, NO** *enforcement clause* that exists in the 16th Amendment. Clearly this is why most Americans believed for years that the income tax must be voluntary, **because it cannot be enforced with law** without an *enabling enforcement clause* in the Amendment authorizing law to be written by Congress (enforcing the new power granted, - if any power is to be so granted) ! Of course, the U.S. Constitution is not taught in our schools anymore, so these irrefutable controlling constitutional facts have either been forgotten across generations, or were never learned or known at all by most of the American people, including our public elected officials!

To make a long story short, without Congress being authorized by an **enabling enforcement clause** as part of the 16th Amendment **to write** law, then, **no law can exist** for the federal courts to take jurisdiction under to enforce the *practice* being conducted by the IRS under the 16th Amendment, to pursue the enforcement of an income tax that is assessed by the IRS in *practice* as a *direct* unapportioned tax under the 16th Amendment; - rather than as the uniform *indirect* tax that is constitutionally authorized and allowed under Article I, Section 8, as upheld by the Supreme Court in 1916 (which is also the reason that the tax is **not** voluntary - it has limited *enforceable* application, but **only** as an *impost, duty or excise* under Article I).

Of course, *lack of subject-matter jurisdiction* (under the 16th Amendment - for lack of an *enabling enforcement clause*) is the first defense of every civil defendant under the Rules of Federal Civil Procedure, Rule 12(b)(1). *Lack of personal jurisdiction* (under Article I - for lack of *statutory subjectivity* to **any impost, duty or excise** tax imposed in law thereunder) is the second defense of every civil defendant under Fed. R. Civ. P. Rule 12(b)(2). Therefore, all of the civil tax enforcement actions filed by the United States must be dismissed from the district courts if properly argued by an attorney (or defendant), and the deeper you look into the supporting evidence of the statutes and the published enforcement regulations and procedures, the clearer this all becomes!

The confusion and problem arises out of the fact that, and continues today because, there are actually **two different, contradictory Standards at Law** being practiced and applied in the federal courts with regard to the federal personal income tax. This problematic inherent contradiction in the federal courts causing the constitutional problem is obvious (see attached *Motion to Determine the Standard at Law Used*), and how to deal with it procedurally in the courts is simple, **once the problem is recognized** and acknowledged. The inherent contradiction in the two opposing *Standards at Law* can be used to compel the court to make a clear choice as to the identification and establishment of its alleged constitutional foundation

and true authority for the civil action, going to the proper establishment of the actual *subject-matter jurisdiction* of the court over the action, on the record of the action, **either one of which** choices, **kills the civil action** under Fed.R.Civ.P. Rule 12(b)(1) or 12(b)(2) ! It's just that simple. The supporting evidence, as to the true constitutionally authorized use of the enforcement statutes by the IRS under Article I and Title 27, is clearly published in the CFR, with no applicability shown under Title 26 and the 16th Amendment (see attached) !

Properly publicized in the legal community, this information will completely destroy the IRS in a matter of months, and will also destroy the DOJ's ability to secure judgments in the federal courts to continue to enforce the income tax as it has doing under a perverted *philosophy* that attempts to make the income tax under the 16th Amendment the operational equivalent of the unlimited power to tax the people *directly* (and without apportionment) that is called for in the *second plank* of the Communist Manifesto; - rather than being implemented and enforced as a limited power to tax *indirectly* under Article I, Section 8 of the U.S. Constitution, as upheld by the Supreme Court in 1916, as an *impost, duty* or *excise*.

I know this introductory letter is already too long, and since a picture speaks a thousand words, I urge you to review the attached, two, very simple diagrams that show what is wrong with, and what is actually allowed in the federal courts of America under the federal income tax system today, under the U.S. Constitution, as held by the Supreme Court.

Will you help me to save America from this **monstrous judicial error**, and publicize in the legal community this information about this **fatal fundamental lack of subject-matter jurisdiction** of the federal courts to entertain and adjudicate civil and criminal actions relating to the enforcement of the federal personal income tax ? Every attorney in the country should know how to put on this defense for any income-tax-charged defendant !

I have written all of the Motions and court documents necessary to do this. I also have all of the necessary supporting documents, and will be mounting these *Motions* and docs on the [www.IRSzoom.com](http://www.IRSzoom.com) on-line document library that allows any person in the country to quickly and easily procure the documents necessary to answer any administrative correspondence received from the IRS, and to subsequently properly argue the actual income tax law(s), in the federal court(s), under the U.S. Constitution, if necessary, using this *lack of subject-matter jurisdiction* (or *personal jurisdiction*) *argument*. This perfect legal strategy is ready to be publicized and used by the general public and all private attorneys arguing tax law in the U.S. courtroom, anywhere in America, for any civil Defendant in a tax enforcement action (other those people who are actually involved in ATF and petroleum fuels activities, where the tax is actually imposed and made enforceable). Would you be willing to help me restore constitutionality to the American system of income taxation ?

Please review the attached pages, and then feel free to contact me for more information or supporting documents on this legal breakthrough,  
Thank you for your time and consideration in this critically important national matter.

Respectfully,

*Thomas Freed*

Cell: (703) 899-7369 Fax: (202) 280-1301  
[www.IRSzoom.com](http://www.IRSzoom.com) & [www.Tax-Freedom.com](http://www.Tax-Freedom.com)



The Constitutional Authority Statement for the new Trump income tax law as of Dec. 2017

## CONGRESS.GOV

### H.R.1 - Tax Cuts and Jobs Act

115th Congress (2017-2018)

**Sponsor:** [Rep. Brady, Kevin \[R-TX-8\]](#) (Introduced 11/02/2017)

**Committees:** House - Ways and Means

**Committee Reports:** [H. Rept. 115-409](#)

**Latest Action:** House - 11/16/2017 Motion to reconsider laid on the table Agreed

**Roll Call Votes:** There has been [1 roll call vote](#)

**Tracker:** Introduced **Passed House** Passed Senate To President Became Law

**Summary (1)** Text (3) Actions (22) Titles (5) Amendments (1) Cosponsors (2)

There is one summary for H.R.1. [Bill summaries](#) are authored by [CRS](#).

#### Shown Here:

Introduced in House (11/02/2017)

#### Tax Cuts and Jobs Act

This bill amends the Internal Revenue Code to reduce tax rates and modify policies, credits

With respect to individuals, the bill:

- replaces the seven existing tax brackets (10%, 15%, 25%, 28%, 33%, 35%, and 39.6%) with four new brackets (10%, 15%, 25%, and 35%),
- increases the standard deduction,
- repeals the deduction for personal exemptions,
- establishes a 25% maximum rate on the business income of individuals,
- increases the child tax credit and establishes a new family tax credit,
- repeals the overall limitation on certain itemized deductions,
- limits the mortgage interest deduction for debt incurred after November 2, 2017,
- repeals the deduction for state and local income or sales taxes not paid or accrued in a trade or business,
- repeals the deduction for medical expenses,
- consolidates and repeals several education-related deductions and credits,
- repeals the alternative minimum tax, and
- repeals the estate and generation-skipping transfer taxes in six years.

For businesses, the bill:

- reduces the corporate tax rate from a maximum of 35% to a flat 20% rate (25% for personal services corporations),
- allows increased expensing of the costs of certain property,
- limits the deductibility of net interest expenses to 30% of the business's adjusted taxable income,
- repeals the work opportunity tax credit,
- terminates the exclusion for interest on private activity bonds,
- modifies or repeals various energy-related deductions and credits,
- modifies the taxation of foreign income, and
- imposes an excise tax on certain payments from domestic corporations to related foreign corporations.

The bill also repeals or modifies several additional credits and deductions for individuals and businesses.

#### Constitutional Authority Statement

[Congressional Record Volume 163, Number 178 (Thursday, November 2, 2017)]  
From the Congressional Record Online through the Government Publishing Office [\[www.gpo.gov\]](#)  
By Mr. BRADY of Texas:

H.R. 1.

Congress has the power to enact this legislation pursuant

to the following:

Article I, Section 8, Clause 1 of the Constitution of the

United States.

[Page H8444]

#### About Constitutional Authority Statements

On January 5, 2011, the House of Representatives adopted an amendment to House Rule XII, Rule XII, clause 7(c) requires that, to be accepted for introduction by the House Clerk, all bills (H.R.) and joint resolutions (H.J. Res.) must provide a document stating "as specifically as practicable the power or powers granted to Congress in the Constitution to enact the bill or joint resolution."

Close



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[Page H8444]

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SO HOW COME the IRS, the DOJ & the LOWER FEDERAL COURTS (District & Circuit)  
NOW SAY THAT IT IS A DIRECT TAX UNDER THE 16<sup>th</sup> AMENDMENT !!

THE IRS, DOJ, & lower court judges all NOW say, argue, and rule that it is *frivolous* to argue that the federal personal income tax is an *indirect* tax (*Impost, Duty, or Excise*) under Article I, Section 8, clause 1 of the U.S. Constitution, AS OPENLY DECLARED BY CONGRESS IN THE Constitutional Authority Statement, in the Congressional Record, for the NEW TRUMP TAX LAW (shown above and enacted in December 2017, - made effective as of January 2018), rather than a *direct* tax under the 16<sup>th</sup> Amendment, which is what they have been wrongfully and fraudulently arguing and ruling erroneously for 65 years. Here is the government's ERRONEOUS position, below, **verbatim**, from their Frivolous Positions Document(s), published on the IRS website.

**“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:**

*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.

*United States v. Collins*, 920 F.2d 619, 629 (10th Cir. 1990) – 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.”

*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

The IRS, DOJ, and lower courts still say that the federal personal income tax is a direct tax under authority of the 16th Amendment; - which it NEVER WAS, and never-the-less, it now CANNOT BE, - after the new Trump tax law enacted in Dec. 2017.

The IRS, DOJ, and the federal JUDGES ARE LYING TO YOU AMERICA!  
Just BLATANTLY LYING !!

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) – the court rejected a refund suit, stating that the Sixteenth Amendment authorizes imposition of an income tax without apportionment among the states.

*Stearman v. Commissioner*, T.C. Memo. 2005-39, 89 T.C.M. (CCH) 823 (2005), *aff'd*, 436 F.3d 533 (5th Cir. 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."

But the Supreme Court ruled in 1913 in the *Brushaber* [240 US 1 (1916)] and *Baltic Mining* [240 US 103 (1916)] decisions, that it is an *indirect* tax, **not direct**; - and that is also what Congress just wrote in the "Constitutional Authority Statement" on the Congressional Record, clearly stating the original congressional intent with respect to this new income tax law (H.R. 1), that was just passed under President Donald Trump in December of 2017, and became effective the next month in January 2018.

So shouldn't someone tell Congress that their new income tax law is deemed *frivolous* by the courts, the IRS, and the DOJ? Or is it really the DOJ, the IRS, and federal judges who have been pushing the *frivolous socialist* positions on the American People (virtual communism under the 2<sup>nd</sup> Plank of the Manifesto – look it up), under the *guise* and *pretense* of taxation, and in the *name of tax only* for 65 years.

That's 65 years of JUDICIAL FRAUD to communize America, and Americans.  
That's Orwellian.

**THREE DIFFERENT FEDERAL COURTS (& their CIRCUIT COURTS OF APPEALS)  
PROVIDE THREE DIFFERENT RULINGS ON THE CONSTITUTIONAL NATURE OF THE TAX**

1. Defendant Michael Balice, Judge **Kevin McNulty**, Trenton, NJ

**New Jersey federal district court case # 2:14-cv-03937**

**U.S. Third Circuit cases # 17-3143, 18-2432, 18-2528**

**Court Rules** it is a new, ***Direct*** taxing power under the 16<sup>th</sup> Amendment

– despite there being **no enabling enforcement clause** in the Amendment to authorize the U.S. Congress to write new law to enforce the new power allegedly created

– Invokes the Article 1, Sec. 8, cl. 18 enforcement powers to enforce powers that are **prohibited** in Article I, thus improperly using the Amendment **to destroy** 2 other Art I clauses, and removing all *limitation* upon the alleged new power to tax income (***directly*** and without *limitation*)

2. Defendant Lewis Carter, Judge **Hannah Lauck**, Eastern Virginia – Richmond

**Virginia district court cases# 3:15-cv-00161 & 3:16-cv-00674**

**U.S. Fourth Circuit cases #16-1689, 18-1471**

**Court Rules** in this case that it is a pre-existing ***Indirect*** tax (and taxing power) under authority of Article I, Section 8, cl. 1 (**not** *Direct*, as held in the 3rd Circuit)

- contradicting 35 years of established precedent in the Fourth Circuit!

- But the court **refuses** to say if it is an *Impost, Duty, or Excise* thereunder!

3. Defendant Ken Cromar, Judge **Robert L. Shelby** - Central Division, Salt Lake City, Utah

District court case #2:17-cv-01223

**Tenth Circuit cases #18-4128, 19-4035, 19-4075, 19-4125, 19-4129**

This district court judge **refused to identify** or make plaintiff United States identify, on the record of the action in the court, **the constitutional nature of the tax pursued** for enforcement, as either *direct* or *indirect* (or something else?). This court allowed the plaintiff to claim that *subject-matter jurisdiction* can be established under statutes alone – arguing that **no constitutional authority** is alleged to be necessary or required, - which is legally **impossible**.

- **F.R.C.P. Rule 84, Form 2**; at one time, provided the **specific form** to be used to declare the *subject-matter jurisdiction* of the court taken in any civil legal action. It read:

“... The action arises under [the Constitution of the United States, Article \_\_\_\_, Section \_\_\_\_]; [the \_\_\_\_ Amendment to the Constitution of the United States, Section \_\_\_\_]; ...”

Neither court, nor the plaintiff United States, will speak to address the *nature* of the tax claims.

# UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS  
ENACTED DURING THE FIRST SESSION OF THE  
SEVENTY-SIXTH CONGRESS  
OF THE UNITED STATES OF AMERICA

1939

AND

TREATIES, INTERNATIONAL AGREEMENTS OTHER  
THAN TREATIES, AND PROCLAMATIONS

COMPILED, EDITED, INDEXED, AND PUBLISHED BY AUTHORITY OF LAW  
UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOLUME 53

PART 1

INTERNAL REVENUE CODE

APPROVED FEBRUARY 10, 1939



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1939

## 4 CODIFICATION OF INTERNAL REVENUE LAWS

### SUPPLEMENT P—FOREIGN PERSONAL HOLDING COMPANIES

- Sec. 331. Definition of foreign personal holding company.
- Sec. 332. Foreign personal holding company income.
- Sec. 333. Stock ownership.
- Sec. 334. Gross income of foreign personal holding companies.
- Sec. 335. Undistributed supplement P net income.
- Sec. 336. Supplement P net income.
- Sec. 337. Corporation income taxed to United States shareholders.
- Sec. 338. Information returns by officers and directors.
- Sec. 339. Information returns by shareholders.
- Sec. 340. Penalties.

### SUPPLEMENT Q—MUTUAL INVESTMENT COMPANIES

- Sec. 361. Definition.
- Sec. 362. Tax on mutual investment companies.

### SUPPLEMENT R—EXCHANGES AND DISTRIBUTIONS IN OBEDIENCE TO ORDERS OF THE SECURITIES AND EXCHANGE COMMISSION

- Sec. 371. Nonrecognition of gain or loss.
- Sec. 372. Basis for determining gain or loss.
- Sec. 373. Definitions.

## CHAPTER 1—INCOME TAX

### SUBCHAPTER A—INTRODUCTORY PROVISIONS

#### SEC. 1. APPLICATION OF CHAPTER.

The provisions of this chapter shall apply only to taxable years beginning after December 31, 1938. Income, war-profits, and excess-profits taxes for taxable years beginning prior to January 1, 1939, shall not be affected by the provisions of this chapter, but shall remain subject to the applicable provisions of the Revenue Act of 1938 and prior revenue acts, except as such provisions are modified by legislation enacted subsequent to the Revenue Act of 1938.

#### SEC. 2. CROSS REFERENCES.

The cross references in this chapter to other portions of the chapter, where the word "see" is used, are made only for convenience, and shall be given no legal effect.

#### SEC. 3. CLASSIFICATION OF PROVISIONS.

The provisions of this chapter are herein classified and designated as—

- Subchapter A—Introductory provisions,
- Subchapter B—General provisions, divided into Parts and sections,
- Subchapter C—Supplemental provisions, divided into Supplements and sections.

#### SEC. 4. SPECIAL CLASSES OF TAXPAYERS.

The application of the General Provisions and of Supplements A to D, inclusive, to each of the following special classes of taxpayers, shall be subject to the exceptions and additional provisions found in the Supplement applicable to such class, as follows:

- (a) Estates and trusts and the beneficiaries thereof,—Supplement E.
- (b) Members of partnerships,—Supplement F.
- (c) Insurance companies,—Supplement G.
- (d) Nonresident alien individuals,—Supplement H.
- (e) Foreign corporations,—Supplement I.
- (f) Individual citizens of any possession of the United States who are not otherwise citizens of the United States and who are not residents of the United States,—Supplement J.
- (g) Individual citizens of the United States or domestic corporations, satisfying the conditions of section 251 by reason of deriving a large portion of their gross income from sources within a possession of the United States,—Supplement J.

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- (h) China Trade Act corporations,—Supplement K.
- (i) Foreign personal holding companies and their shareholders,—Supplement P.
- (j) Mutual investment companies—Supplement.

### SUBCHAPTER B—GENERAL PROVISIONS

#### Part I—Rates of Tax

##### SEC. 11. NORMAL TAX ON INDIVIDUALS.

There shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax of 4 per centum of the amount of the net income in excess of the credits against net income provided in section 25.

##### SEC. 12. SURTAX ON INDIVIDUALS.

(a) DEFINITION OF "SURTAX NET INCOME".—As used in this section the term "surtax net income" means the amount of the net income in excess of the credits against net income provided in section 25 (b).

(b) RATES OF SURTAX.—There shall be levied, collected, and paid for each taxable year upon the surtax net income of every individual a surtax as follows:

Upon a surtax net income of \$4,000 there shall be no surtax; upon surtax net incomes in excess of \$4,000 and not in excess of \$6,000, 4 per centum of such excess.

\$80 upon surtax net incomes of \$6,000; and upon surtax net incomes in excess of \$6,000 and not in excess of \$8,000, 5 per centum in addition of such excess.

\$180 upon surtax net incomes of \$8,000; and upon surtax net incomes in excess of \$8,000 and not in excess of \$10,000, 6 per centum in addition of such excess.

\$300 upon surtax net incomes of \$10,000; and upon surtax net incomes in excess of \$10,000 and not in excess of \$12,000, 7 per centum in addition of such excess.

\$440 upon surtax net incomes of \$12,000; and upon surtax net incomes in excess of \$12,000 and not in excess of \$14,000, 8 per centum in addition of such excess.

\$600 upon surtax net incomes of \$14,000; and upon surtax net incomes in excess of \$14,000 and not in excess of \$16,000, 9 per centum in addition of such excess.

\$780 upon surtax net incomes of \$16,000; and upon surtax net incomes in excess of \$16,000 and not in excess of \$18,000, 11 per centum in addition of such excess.

\$1,000 upon surtax net incomes of \$18,000; and upon surtax net incomes in excess of \$18,000 and not in excess of \$20,000, 13 per centum in addition of such excess.

\$1,260 upon surtax net incomes of \$20,000; and upon surtax net incomes in excess of \$20,000 and not in excess of \$22,000, 15 per centum in addition of such excess.

\$1,560 upon surtax net incomes of \$22,000; and upon surtax net incomes in excess of \$22,000 and not in excess of \$26,000, 17 per centum in addition of such excess.

\$2,240 upon surtax net incomes of \$26,000; and upon surtax net incomes in excess of \$26,000 and not in excess of \$32,000, 19 per centum in addition of such excess.

\$3,380 upon surtax net incomes of \$32,000; and upon surtax net incomes in excess of \$32,000 and not in excess of \$38,000, 21 per centum in addition of such excess.

\$4,640 upon surtax net incomes of \$38,000; and upon surtax net incomes in excess of \$38,000 and not in excess of \$44,000, 24 per centum in addition of such excess.

\$6,080 upon surtax net incomes of \$44,000; and upon surtax net incomes in excess of \$44,000 and not in excess of \$50,000, 27 per centum in addition of such excess.





## PARALLEL TABLE OF AUTHORITIES AND RULES

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The following table lists rulemaking authority (except 5 U.S.C. 301) for regulations codified in the *Code of Federal Regulations*. Also included are statutory citations which are noted as being interpreted or applied by those regulations.

The table is divided into four segments: United States Code citations, United States Statutes at Large citations, public law citations, and Presidential document citations. Within each segment the citations are arranged in numerical order:

For the United States Code, by title and section;

For the United States Statutes at Large, by volume and page number;

For public laws, by number; and

For Presidential documents (Proclamations, Executive orders, and Reorganization plans), by document number.

Entries in the table are taken directly from the rulemaking authority citation provided by Federal agencies in their regulations. Federal agencies are responsible for keeping these citations current and accurate. Because Federal agencies sometimes present these citations in an inconsistent manner, the table cannot be considered all-inclusive.

The portion of the table listing the United States Code citations is the most comprehensive, as these citations are entered into the table whenever they are given in the authority citations provided by the agencies. United States Statutes at Large and public law citations are carried in the table only when there are no corresponding United States Code citations given.

This table is revised as of January 1, 2014.

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