

# **PETITION FOR REDRESS OF GRIEVANCES**

## **RELATING TO THE FEDERAL INCOME TAX**

WHEREAS, in April 2000, People from all 50 of the several states gathered in Washington, DC and served a Remonstrance upon the U.S. President and the leaders of both Houses of the Congress, seeking Redress (remedy) of Grievances regarding the unconstitutional origin, operation and enforcement of the federal income tax system – specifically, the direct, un-apportioned tax upon the labor of ordinary Americans, and

**WHEREAS, such Petition for Redress was subsequently ignored, and**

WHEREAS, in November 2001, the U.S. Department of Justice (DOJ) and the Internal Revenue Service (IRS) **reneged on their July 20, 2001 written agreement** to appear, on February 27 and 28, 2002, at a recorded, public hearing on Capitol Hill, to respond to the People’s Petition for Redress by answering the People’s questions regarding the unconstitutional origin, operation and enforcement of the federal income tax system, and

WHEREAS, on February 27 and 28, 2002, in Washington DC, at the recorded, public forum, with the government in absentia by their refusal to appear, the People conducted a Truth-in-Taxation Hearing, taking testimony, under oath, from credible professionals including former IRS agents, tax attorneys, CPAs, tax law researchers and a former IRS Counsel, whose testimony was supported by irrefutable evidence, finding that the Department of Justice, the IRS and the Courts have been acting in gross violation of the tax clauses of the Constitution and the essential principles upon which this nation was founded, and

WHEREAS, on April 15, 2002, every member of United States Congress in the House of Representatives and Senate was again served with a Petition for Redress of Grievances regarding the unconstitutional origin, operation and enforcement of the federal income tax system – specifically, the direct, un-apportioned tax upon the labor of ordinary Americans, which Petition included a copy of the full record of the Truth-In-Taxation Hearing and a certified transcript of the Hearing, and

**WHEREAS, such Petition for Redress was subsequently ignored, and**

WHEREAS, on November 8th, 2002, every member of United States Congress in the House of Representatives and Senate and the President were again served with a Petition for Redress of Grievances regarding the Constitutional abuses arising from the federal income tax system, and

**WHEREAS, such Petition for Redress was subsequently ignored, and**

WHEREAS, on March 15, 2003, the President, both leaders of Congress, IRS and DOJ were again served with a Petition for Redress of Grievances regarding the unconstitutional origin, operation and enforcement of the federal income tax system – specifically, the direct, un-apportioned tax upon the labor of ordinary Americans, which Petition challenged the constitutionality of the institutionalized practice of wage withholding – that is, the practice of forcing companies to withhold, and divert to the federal Government, part of the earnings of ordinary American workers, and

**WHEREAS, such Petition for Redress was subsequently ignored, and**

WHEREAS, on May 10, 2004, the President, Treasury Secretary, Attorney General and IRS Commissioner were served with another Petition for Redress of Grievances regarding the unconstitutional origin, operation and enforcement of the federal income tax system, which Petition set forth a substantial body of additional documentary evidence establishing the unconstitutionality of a direct, un-apportioned tax on the labor of ordinary Americans, and

**WHEREAS, such Petition for Redress was subsequently ignored, and**

WHEREAS, on June 9, 2006, the Attorney General and IRS Commissioner were again served with a Petition for Redress of Grievances regarding the unconstitutional origin, operation and enforcement of the federal income tax system, which Petition set forth additional documentary evidence demonstrating IRS's inability to secure, as required by federal law, a valid OMB control number for IRS Form 1040, due to the underlying absence of lawful authority to impose a direct, un-apportioned tax upon the labor of ordinary American workers, and

**WHEREAS, such Petition for Redress was subsequently ignored, and**

WHEREAS, on August 9, 2007, the United States Court of Appeals for the District of Columbia Circuit erred, in relying on two inapposite decisions by the Supreme Court of the United States and holding that the Government does not have to listen or respond to Petitions for Redress of Grievances from the People, and

WHEREAS, on February 22, 2008, the Supreme Court of the United States committed treason to the Constitution by refusing to hear the First Amendment case, We The People v. United States, calling for a judicial declaration - *for the first time in history* - of the Rights of the People and the obligations of the Government under the “accountability clause” of the Constitution – that is, the last ten words of the First Amendment.

WHEREAS, all men are created equal and are endowed by their "Creator" with certain unalienable rights, and

WHEREAS, if the Creator has, in fact, gratuitously provided, equipped and enriched the People with Rights, it follows that those Rights belong to the People and to the Creator, and it follows that any affront to the Constitution (as when government violates an unalienable Right) is an affront to the Creator, and

WHEREAS, if our Rights come from the Creator, only the Creator can frustrate and deny or defeat our Rights -- that is, government cannot abridge what God alone has manifest and bestowed upon the People, and

WHEREAS, the Constitution of the United States of America is a strongly worded, Divinely inspired, set of principles expressly intended to govern the government, not the People, and

WHEREAS, by the terms and provisions of the Constitution, the People have established their government and authorized it to act in certain ways, and have purposely and markedly restricted and prohibited the government from acting in certain ways, and

WHEREAS, the Constitution of the United States of America guarantees to every American citizen and to those lawfully on our soil, the unalienable rights to life, liberty, property, privacy and to due process of law, and

WHEREAS, the Constitution prohibits and restricts the federal Government from infringing on those rights, and

WHEREAS, each of the Constitution's prohibitions and restrictions on government's power is, in fact, another unalienable right enjoyed by every American citizen and to those individuals lawfully upon our soil, and

WHEREAS, the People of this nation are entitled, by Right, to a system of taxation that does NOT violate any of their constitutionally protected unalienable Rights,

Now therefore:

**WE THE PEOPLE** hereby Petition the Executive and Legislative branches of the federal Government, **yet again**, for Redress of Grievances regarding the unconstitutional origin, operation and enforcement of the federal income tax system – specifically, the oppression of the direct, un-apportioned tax upon the labor of ordinary Americans.

**WE THE PEOPLE** find ourselves, once again, in the position of having to admit that in every stage of our oppression we have Petitioned for Redress in the most humble terms, our repeated Petitions have been answered only by repeated injury, and that a Government that ignores its People is unfit to be the ruler of a free People.

**WE THE PEOPLE, by and through the unalienable Right guaranteed by First and Ninth Amendments to the Constitution of the United States of America,** instruct the President and each member of Congress to honor their oaths of office and their constitutional obligation by responding to this Petition for Redress, providing formal, specific answers to the 62 questions listed below, **no later than forty (40) days reckoning from the date of service of this Petition for Redress.**

**WE THE PEOPLE, by and through the unalienable Right guaranteed by First and Ninth Amendments to the Constitution of the United States of America,** instruct the President and each member of Congress to honor their oaths of office and their constitutional obligation by responding to the Petitions for Redress enumerated above (and incorporated herein by reference), providing formal, specific answers to the questions contained therein, no later than one hundred days reckoning from the date of service of this Petition for Redress.

**WE THE PEOPLE** reaffirm the essential principle underlying our system of governance, as expressed by the Founders, “whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to reform the old, or establish a new government, for the doctrine of nonresistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.” See Declaration of Independence and the New Hampshire Constitution, Article 10.

**WE THE PEOPLE** reaffirm the essential principle underlying our system of governance, as expressed by the Founders, that “If money is wanted by Rulers who have in any manner oppressed the People, they may retain it until their grievances are redressed, and thus peaceably procure relief, without trusting to despised petitions or disturbing the public tranquility” and “how efficacious its [the privilege of giving or withholding our money] intercession for redress of grievances and establishment of rights, and how improvident would be the surrender of so powerful a mediator. ” (*Journals of the Continental Congress*, 1:105-113 and Jefferson’s papers 1:225).

**WE THE PEOPLE** instruct the President and each member of Congress to respond to this Petition by providing formal, specific answers to the following questions.

1. Admit or deny that the “gross income” mentioned in Section 6012 of the Internal Revenue Code is the “gross income” as set forth at Section 61(a) of the Internal Revenue Code.
2. Admit or deny that Section 61(a) of the Internal Revenue Code defines “gross income” as “all income” from whatever source derived, but nowhere in the statutes is the legal term “income” defined.
3. Admit or deny that in *Eisner v. Macomber*, 252 U.S. 189, 206 (1920), the United States Supreme Court held that Congress cannot by any definition it may adopt conclude what “income” is, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised.
4. Admit or deny that the definition of income as it appears in Section 61(a) is based upon the 16th Amendment and that the word is used in its constitutional sense.
5. Admit or deny that the United States Supreme Court has defined the term “income” for purposes of all income tax legislation as: The gain derived from capital, from

labor or from both combined, provided it include profit gained through a sale or conversion of capital assets.

6. Admit or deny that the United States Supreme Court defined "income" to mean the following:

“...Whatever difficulty there may be about a **precise scientific definition of ‘income,’** it imports, as used here, something entirely distinct from principal or capital either as a subject of taxation or as a measure of the tax; **conveying rather the idea of gain or increase arising from corporate activities.**”

“This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax, but an **excise tax upon the conduct of business in a corporate capacity,** measuring, however, the amount of tax by the income of the corporation...”  
*Flint v. Stone Tracy Co.*, 220 U.S. 107,  
55 L.Ed. 389, 31 Sup.Ct.Rep. 342, Ann. Cas.”

7. Admit or deny that in the absence of gain, there is no “income.”

8. Admit or deny that there is a difference between gross receipts and gross income.

9. Admit or deny that the United States Supreme Court recognizes that one’s labor constitutes property.

10. Admit or deny that the United States Supreme Court stated in *Butchers’ Union Co. v. Crescent City Co.*, 111 U.S. 746, 757 (concurring opinion of Justice Fields) (1883), that:

“It has been well said that, “The property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable.””

11. Admit or deny that the United States Supreme Court recognizes that contracts of employment constitute property.

12. Admit or deny that the United States Supreme Court stated in *Coppage v. Kansas*, 236 U.S. 1, 14 (1914) that:

“The principle is fundamental and vital. Included in the right of personal liberty and the right of private property--partaking of the nature of each--is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and other services are exchanged for money or other forms of property.”

13. Admit or deny that the United States Supreme Court recognizes that a contract for labor is a contract for the sale of property.

14. Admit or deny that the United States Supreme Court has stated in *Adair v. United States*, 208 U.S. 161, 172 (1908) that:

“In our opinion that section, in the particular mentioned, is an invasion of the personal liberty, as well as of the right of property, guaranteed by that Amendment (5th Amendment). Such liberty and right embraces the right to make contracts for the purchase of the labor of others and equally the right to make contracts for the sale of one’s own labor.”

15. Admit or deny that the leading authority on the terms "direct" and "indirect" taxation at the time of the ratification of the Constitution and at the time of the debates of the Sixteenth Amendment was Adam Smith, author of *Wealth of Nations*. See notes that follow.

In the 1909 congressional debates over the Sixteenth Amendment, Adam Smith was quoted far more than any other authority and was always quoted with approval. Adam Smith was quoted 18 times, Albert Gallatin four times and Jacques Turgot, three times. There were numerous other political economists quoted, but these three dominated the debate. Just as Adam Smith greatly influenced the framers of the Constitution, he was also the respected and undisputed authority on taxation among those members of Congress who debated the Sixteenth Amendment.

"There is every reason to believe that the framers of the Constitution followed the usage of Adam Smith, who eleven years before the convention met had refuted the Physiocratic doctrine as to the incidence of taxes. Albert Gallatin, writing in 1796, stated emphatically his belief that the distinction in the minds of the framers of the Constitution was that of Adam Smith. Gallatin was born and bred a Frenchman, and would have been as likely as any American of the time to accept the Physiocratic view; and in the absence of any evidence to the contrary the testimony of such an authority as Gallatin should be considered conclusive in any question of finance." Max West, *The Income Tax and National Revenues*, 8 *The Journal of Political Economy* 433, 435 (1900).

"If the term 'direct taxes' had been used for the first time in the Constitution, and we could not, therefore, trace its source, much might be left to doubt and to surmise. A large majority of the Constitutional Convention were scholars, 35 of its members were college graduates, and the eight leaders of the great debate were all college men. Were they likely to use terms they did not understand? Had they never seen the term direct tax before; and, if so, where? In the books that were in every man's hand. Many had studied Turgot in the original or in translations of particular passages, and they knew his clear definition of 'Les impôts directs.' Turgot today is still the great work put in the hands of French students of the science of finance and government. Every member of that Convention was familiar with the handbook of statesmen of that age - Adam Smith's *Wealth of Nations*... Macaulay tells us that Pitt

studied only one work on political economy, which guided him through his whole brilliant career in the financial administration of the British Empire, and that was Smith's *Wealth of Nations*. If we had only these two works, known to almost every educated man in those days, could we refuse to follow their definitions and explanations in the absence of any other evidence?" Opening argument of Appellant at 7-8, *Pollock v. Farmers' Loan and Trust Co.*, 158 U.S. 601 (1895).

"Mr. CUMMINS. I had referred to the fact that at the time of the Constitutional Convention, so far as I can now recall, this term had been mentioned by but two economic writers - one, Adam Smith, in the *Wealth of Nations*, and the other a French writer by the name of Turgot. Their general idea was that a direct tax was a tax upon property or [gross] revenue and an indirect tax was a tax upon consumption or expense." 44 Cong. Rec. 3972(1909).

16. Admit or deny that taxes on wages and salaries when paid by the recipient are Capitation Taxes, a species of direct taxes. See notes that follow.

When these writers, Smith and Turgot, used the word "revenue" it was gross revenue to which they were referring. In the Supreme Court's Decision for the *Hylton* case, 3 U.S. (3 Dall.) 171 (1796), the following quote from Adam Smith's *Wealth of Nations* was used authoritatively:

"The impossibility of taxing people in proportion to their revenue, by any capitation, seems to have given occasion to the invention of taxes upon consumable commodities; the State, not knowing how to tax directly and proportionally the revenue of its subjects, endeavors to tax it indirectly by taxing their expense, which it is supposed, in most cases, will be nearly in proportion to their revenue. Their expense is taxed by taxing the consumable commodities upon which it is laid out." Adam Smith, *Wealth of Nations*, Book V, 541 (Prometheus Books, Amherst, New York, 1991) (1776).

If we back up two paragraphs from the paragraph of Adam Smith's *Wealth of Nations* quoted authoritatively by the Supreme Court in the *Hylton* Case, we read:

"Capitation taxes, so far as they are levied upon the lower ranks of people, are direct taxes upon the wages of labour, and are attended with all the inconveniences of such taxes." id. at 540.

In Book V of Adam Smith's *Wealth of Nations*, Smith has a four-page section entitled, "Taxes upon the Wages of Labour." Five times in this section Smith states that a tax on wages is a direct tax. And as we saw above, Smith says it is a species of a capitation tax. id. at 534-38.

Turgot agreed. In Turgot's work, *Plan d'un mémoire sur les impositions*, 1764, he wrote:

"The tax which the proprietor pays immediately on his revenue is called direct tax. The tax which is not assessed directly on the revenue of the proprietor, but which falls on the cost of production of the revenue, or on the expenditure of the revenue, is called indirect tax." Teachings of Political Economists defining Direct and Indirect Taxes, at 3, by Max West, *Pollock v. Farmers' Loan and Trust Co.*, 157 U.S. 629 (1894).

Gallatin agreed too. Albert Gallatin, in his *Sketch of the Finances of the United States*, wrote:

"The most generally received opinion, however, is, that by direct taxes in the Constitution, those are meant which are raised on the capital or revenue of the people; by indirect, such as are raised on their expense.

"The taxes which it is intended should fall indifferently upon every different species of revenue are capitation taxes...These must be paid indifferently from whatever revenue the contributors may possess." Rehearing Brief of Appellant at 112, *Pollock v. Farmers' Loan and Trust Co.*, 158 U.S. 601 (1895).

17. Admit or deny that labor is property. See note that follows.

In the case of *Butchers' Union Co. v. Crescent City Co.*, 111 U.S. 746 (1883), Supreme Court Justice Field wrote in his concurring opinion at page 757:

"It has been well said that, 'The property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable.'"

18. Admit or deny that a tax on property is a direct tax. See notes that follow.

To speak of a poll tax (or other direct tax on a natural person) as a tax on property requires resort to the legal theory that a freeman is owner of himself and his labor force in a sense analogous to a master's ownership of his slave." Prof. Isaac A. Loos, Allen Ripley Foote, *The Division Between State and Local Taxation*, State and Local Taxation, Second International Conference, International Tax Association, 203, 206 (1909).

"Direct taxes are those that are levied 'upon the very person who it is supposed as a general thing will bear their burden.' The general property, the income tax, the poll tax, may be classed as direct taxes for the reason that when a person pays one of these taxes, he is likely to bear the burden himself and is not likely to shift it to another." Israel Freeman, *Constitutionality of Federal Corporation Tax Law*, 72 *Central Law Journal* 59 (1911).

19. Admit or deny that the executive branch of government must follow the intent of the legislative branch which must itself conform to the intent of the Constitution. See notes that follow.

"One of the most readily available extrinsic aids to the interpretation of statutes is the action of the legislature on amendments which are proposed to be made during the course of consideration in the legislature. Both the state and federal courts will refer to proposed changes in a bill in order to interpret the statute as finally enacted. The journals of the legislature are the usual source for this information. Generally the rejection of an amendment indicates that the legislature does not intend the bill to include the provisions embodied in the rejected amendment." Sutherland on Statutory Construction, sec. 48.18 (5th Edition).

"It is plain, then, that Congress had this question presented to its attention in a most precise form. It had the issue clearly drawn. The first alternative was rejected. All difficulties of construction vanish if we are willing to give to the words, deliberately adopted, their natural meaning." U.S. v. Pfitsch, 256 U.S. 547, 552 (1921).

20. Admit or deny that the Senate considered and rejected including un-apportioned *direct* taxation within the authority of the Sixteenth Amendment. See notes that follow.

The evidence that direct taxes are without the authority of the Sixteenth Amendment is overwhelmingly compelling. The Senate voted on the Sixteenth Amendment (S.J.R. #40) at 1 o'clock on July 5, 1909. Senator Aldrich had earlier tried to ram it through the Senate on Saturday, July 3rd, a holiday weekend, for an immediate vote without debate when only 52 senators were present. A few senators protested and the vote was set for the following Monday. During the debate on July 3rd, several amendments were proposed to S.J.R. #40 that came up for a vote at the appointed hour of 1 PM Monday, July 5, 1909.

There also was an amendment by Senator McLaurin of Mississippi. After a long discussion by him about direct taxes, Senator McLaurin proposed this amendment to S.J.R. #40 as follows:

"The SECRETARY. Amend the joint resolution by striking out all after line 7 and inserting the following: The words 'and direct taxes' in clause 3, section 2, Article I, and the words 'or other direct,' in clause 4, section 9, Article I. of the Constitution of the United States are hereby stricken out."  
44 Cong. Rec. 4109 (1909).

The Senate rejected this, as this amendment failed by voice vote. Had it passed, it would have provided authority for a species of income tax that was inherently a direct tax to be levied without apportionment.

Lastly there was an amendment by Senator Bristow of Kansas to replace S.J.R. #40 with S.J.R. #39. S.J.R. #39 read:

"The Congress shall have the power to lay and collect direct taxes on incomes without apportionment among the several States according to population." id. At 4120-1.

This substitute amendment also included a provision to elect senators by popular vote. After some debate this was also rejected by voice vote. The election of Senators by popular vote was soon thereafter approved by the 17th Amendment. Therefore this instant amendment failed because of the direct tax provision.

21. Admit or deny that in the *Brushaber* case, 240 U.S. 1 (1916), both Brushaber and the government argued that the Sixteenth Amendment provided for an exception to the apportionment rule such that a direct tax could be collected without apportionment. See notes that follow.

This issue was presented squarely to the Supreme Court in the following cases: *Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1 (1916); *Tyee Realty Co. v. Anderson*, 240 U.S. 115 (1916); *Thorne v. Anderson*, October term 1915, No.394 (24,613); *Dodge v. Osborn*, 240 U.S. 118 (1916); and *Stanton v. Baltic Mining Co.*, 240 U.S. 103 (1916). Mr. Brushaber, Tyee Realty Co. and Mr. Thorne all had the same attorney, a Mr. Julian Davies from New York City of the law firm Davies, Tolles, Glenn and Schurick. Mr. Davies asserted in his brief in each of these cases as follows:

"The effect of the Sixteenth Amendment was merely to waive the requirement of apportionment among the States, in its application to a general and uniform tax upon incomes from whatever source derived...

"The evident purpose of this amendment was not to abandon the former policy of safeguarding the several sections of the Union against disproportionate taxation, but merely to substitute an apportionment according to incomes 'from whatever source derived,' in lieu of a per capita apportionment." Br. for appellants at 9-11, *Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1 (1916).

In other words, according to litigant Brushaber, the income tax was still a direct tax. Only the criteria for apportionment changed. Apportionment was now alleged to be based on incomes instead of the per capita apportionment originally required by the Constitution. In its *amicus curae* brief, the Government argued a similar position:

"(b) Apportionment being restricted to direct taxes only (*Flint v. Stone Tracy Co.*, supra 152), the Sixteenth Amendment, in removing that restriction, recognized any tax upon income 'from whatever source derived' as a direct tax, and as such subject to the apportionment rule unless specially exempted." Br. for the United States at 11-12, *Brushaber v. Union Pac. R.R. Co.*, supra.

22. Admit or deny that the Supreme Court rejected arguments that the Sixteenth Amendment provided authority for an un-apportioned direct tax within the several States. See notes that follow.

The Supreme Court stated in its opinion in the *Brushaber* case:

"[t]he contention that the Amendment treats a tax on income as a direct tax, although it is relieved from apportionment and is necessarily therefore not subject to the rule of uniformity as such rule only applies to taxes which are not direct, thus destroying the two great classifications which have been recognized and enforced from the beginning, is also wholly without foundation..." *Brushaber v. Union Pac. R.R. Co.*, supra at 18.

Buttressing the conclusion that the Sixteenth Amendment does not provide authority for an un-apportioned direct tax on the labor of an American Citizen living and working in the several States, we go to Harvard Law Review's commentary on the *Brushaber* Case:

"In *Brushaber v. Union Pac. R.R. Co.*, Mr. Chief Justice White, upholding the income tax imposed by the Tariff Act of 1913, construed the Amendment as a declaration that an income tax is 'indirect,' rather than as making an exception to the rule that direct taxes must be apportioned." *The Income Tax and the Sixteenth Amendment*, 29 *Harvard Law Review* 536 (1915-6).

Cornell Law Quarterly simplifies what this Court said in *Brushaber*:

"The contention of the appellant was as follows:

(1) The Sixteenth Amendment provided for a new kind of a direct tax, a tax on incomes from whatever source derived.

The court, through Chief Justice White, held that the tax [in *Brushaber*] was constitutional. The major proposition of the appellant's argument is not true. Hence, the conclusion does not follow. The sixteenth amendment [sic] does not permit a direct tax, (in fact as it will later be shown, the court does not think that the amendment treated the tax as a direct tax at all), carrying with it the distinguishing characteristic of a hitherto unrecognized uniformity.

The amendment, the court said, judged by the purpose for which it was passed, does not treat income taxes as direct taxes but simply removed the ground which led to their being considered as such in the *Pollock* case, namely, the source of the income. Therefore, they are again to be classified in the class of indirect taxes to which they by nature belong." *Ramon Siaca, The Federal Income Tax Law of 1913: Construction of the Sixteenth Amendment*, 1 *Cornell Law Quarterly* 298, 299 and 301 (1916).

Said another way, the theory upon which the *Pollock* Case was decided was overturned by the Sixteenth Amendment. See also *Constitutional Law: Income Tax: Sixteenth Amendment*, 4 *California Law Review* 333, 335-6 (1915-6), and *Washington Notes, The Income Tax Decision*, 24 *The Journal of Political Economy* 299, 300 (1916).

In 1916, the New York Times wrote of the *Brushaber* case:

"The basic error of those who attacked the constitutionality of the tax, Chief Justice White holds... was in regarding the Sixteenth Amendment as empowering the United States to levy a direct tax without apportionment among the States according to population. In substance, the court holds that the Sixteenth Amendment did not empower the Federal Government to levy a new tax...

We are of the opinion, however, that the confusion is not inherent, but rather arises from the conclusion that the Sixteenth Amendment provides for a hitherto unknown power of taxation: that is, a power to levy an income tax which, although direct should not be subject to the regulation of apportionment applicable to all other direct taxes." *Income Tax Upheld In Broad Decision*, N.Y. Times, p. 5, January 25, 1916.

"The Supreme Court has held that the sixteenth amendment did not extend the taxing power of the United States to new or excepted subjects but merely removed the necessity which might otherwise exist for an apportionment among the States of taxes laid on income whether it be derived from one source or another. So the amendment made it possible to bring investment income within the scope of a general income-tax law, but did not change the character of the tax. It is still fundamentally an excise or duty with respect to the privilege of carrying on any activity or owning any property which produces income. The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of tax." *Congressional Record – House*, March 27, 1943, page 2580.

23. Admit or deny that there is no evidence that can be found anywhere upon which the government can rely in claiming that Congress intended to use the Sixteenth Amendment to create an exception to the apportionment rule whereby a direct tax could be levied without apportionment. See notes that follow.

An exhaustive review of the Congressional Record during the time of the debates on the Sixteenth Amendment reveals **no credible evidence** that the members of Congress were contemplating a direct tax on the wages and salaries of the American People. An exhaustive review of other congressional documents during the ratification process yields no evidence that Congress contemplated using the Sixteenth Amendment as a vehicle to place an un-apportioned direct tax on the wages and salaries of the American People.

An exhaustive review of law journal articles of the time produced **no articles** that indicated Congress or the American People were contemplating a non-apportioned direct tax on the wages and salaries of the American People. No evidence was found in the journals on political economy and economics. Nor was any such evidence discovered in an exhaustive search of New York Times

articles, which are all cataloged in yearbooks as the New York Times is a newspaper of record. As there is no evidence that can be found anywhere indicating that the American People sought to place an un-apportioned direct tax on their wages and salaries, we can conclude that the American People never consented to the very tax that the Commissioner is attempting to collect in the instant case.

The entire weight of the evidence as to the purpose of the Sixteenth Amendment indicates that its objective was to place income taxes on net income from unincorporated business and investment into the classification of indirect taxes. Pollock was overturned by the Sixteenth Amendment. No more and no less. The purpose of the Sixteenth Amendment was to shift the tax burden off of consumption and onto incomes from the accumulated wealth of the country such as to bring tax relief to wage earners.

24. Admit or deny that the purpose of the Sixteenth Amendment was to bring tax relief to wage earners. See notes that follow.

As there is no evidence that can be found anywhere indicating that the American People sought to place an un-apportioned direct tax on their wages and salaries, it is reasonable to conclude that the American People never consented to the very tax that the Commissioner is attempting to collect in the instant case.

The entire weight of the evidence as to the purpose of the Sixteenth Amendment indicates that its objective was to place income taxes on net income from unincorporated business and investment into the classification of indirect taxes. Pollock was overturned by the Sixteenth Amendment. No more and no less. The purpose of the Sixteenth Amendment was to shift the tax burden off of consumption and onto incomes from the accumulated wealth of the country such as to bring tax relief to wage earners.

25. Admit or deny that the 16<sup>th</sup> Amendment created no new classification of taxes under the Constitution, and we are therefore still left only with direct and indirect taxes.

26. Admit or deny that the 16<sup>th</sup> Amendment provides taxation authority only for income taxes that are inherently indirect and that such taxes must be levied according to the constitutional rule of uniformity.

27. Admit or deny that the 16<sup>th</sup> Amendment does not provide an exception to the constitutional rule of apportionment for direct taxes.

28. Admit or deny that any tax on wages and salaries is inherently a direct tax outside the scope of the 16<sup>th</sup> Amendment, and therefore, EVEN IF wages & salaries were constitutionally valid subjects for direct taxation, that a tax upon such subjects would be required to be apportioned among the several States according to population.

29. Admit or deny that taxes on wages and salaries are direct taxes and must be apportioned among the several States.

30. Admit or deny that the current tax on the wages of ordinary Americans is an un-apportioned direct tax.
31. Admit or deny that the Supreme Court, in *Brushaber v Union Pac. R.R. Co.*, 240 U.S. 1 (1916), rejected the idea that the 16<sup>th</sup> Amendment granted to government the power to impose an un-apportioned direct tax, such as the current tax on wages.
32. Admit or deny that the Supreme Court, in *Brushaber v Union Pac. R.R. Co.*, 240 U.S. 1 (1916), ruled that any contention that the 16<sup>th</sup> Amendment treats a tax on income as a direct tax is wholly without foundation.
33. Admit or deny that generically an income tax has been classed as an excise by the Supreme Court in *Brushaber v Union Pac. R.R. Co.*, 240 U.S. 1 (1916).
34. Admit or deny that the Supreme Court, in *Stanton v. Baltic Mining Co.*, 240 U.S. 103 (1916), ruled "...**that the provisions of the 16th Amendment conferred no new power of taxation...**", as would be a power to impose an direct, un-apportioned tax on the wages of ordinary Americans, it merely prohibited the complete and plenary power to tax income derived from labor or capital from being taken out of the category of un-apportioned indirect taxation to which it inherently belonged.
35. Admit or deny that an income tax on the severable net income from business or accumulated wealth is an indirect tax and a tax on the earned income from wages and salaries is a direct tax, and that the government is wholly without power to collect the latter from ordinary American citizens without apportionment.
36. Admit or deny that the Senate, in voting on the 16<sup>th</sup> Amendment resolution, unambiguously expressed the intent of Congress to reject the idea of an un-apportioned direct tax on wages by repeatedly rejecting the opportunity to bring direct taxes within the scope of the 16<sup>th</sup> Amendment, and that it is well settled by the Supreme Court that if Congress has directly spoken to the precise question at issue, the intent of Congress is clear and that ends the matter.
37. Admit or deny that one more than one half of the federal Appeals courts have ruled that the current tax on wages of ordinary Americans is an un-apportioned direct tax while the remaining Appeals courts have ruled the same tax to be an un-apportioned indirect tax.
38. Admit or deny that the income tax of the 16<sup>th</sup> Amendment is a tax that diminishes the income that flows from the source, leaving the source of the income undiminished.
39. Admit or deny that no Delegation Order has ever been published in the Federal Register that authorizes the Commissioner of Internal Revenue to administer, and enforce, an un-apportioned direct tax on the salaries, wages and compensation of ordinary Americans living and working at home in the United States of America (defined so as to include all of the 50 several states of this American Union).

40. Admit or deny that in the 1954 Internal Revenue Code, Congress **deleted** the words "wages" and "salaries" as well as the specific reference to compensation for "personal" services from the statutory definition of "gross income" found at Section 61(a).
41. Admit or deny that the American People do not have to tolerate a tax system in which the federal Government requires a citizen to give up any constitutional rights.
42. Admit or deny that under the protections provided by the Fifth Amendment, the U.S. Government cannot compel any American to be a witness against himself, including the filing of facts via IRS Form 1040.
43. Admit or deny that the second plank in the Communist Manifesto calls for a heavy, progressive (graduated) income tax not unlike that currently imposed via IRS Form 1040.
44. Admit or deny that in voting to approve the 16th (income tax) Amendment the Texas House of Representatives violated Article III, Section 37 of the State Constitution by voting on the bill before the bill was reported out of a Committee. (*See The Law That Never Was, Volume I, pages 89-96*)
45. Admit or deny that in voting to approve the income tax Amendment the Texas state legislature violated Article III, Section 48 of the Texas Constitution, which prohibited the legislature from voting to impose a federal income tax on the people of Texas (*See The Law That Never Was, Volume I, pages 89 - 96*)
46. Admit or deny that in voting to approve the 16th (income tax) Amendment the presiding officer of the Texas Senate violated Article III, Section 38 of the State Constitution by failing to publicly read, in open session, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution, just prior to signing the bill. (*See The Law That Never Was, Volume I, pages 89-96*)
47. Admit or deny that in voting to approve the 16th (income tax) Amendment the Texas state legislature violated Article III, Section 33 of the State Constitution, which required the House to act first on all money bills. (*See The Law That Never Was, Volume I, pages 89-96*)
48. Admit or deny that the state Senate of California violated Article 4, Section 15 of the State Constitution by failing to read, on three different days, the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See The Law That Never Was, Volume I, pages 119 -123*)
49. Admit or deny that the state Assembly of California violated Article 4, Section 15 of the State Constitution by failing to record the Yeas and Nays on the vote on the bill containing the proposed 16th (income tax) Amendment to the U.S. Constitution. (*See The Law That Never Was, Vol, I, pages 119-123*)

50. Admit or deny that Section 1461 is the only place in Subtitle A (Income Tax) of the Internal Revenue Code where Congress used the words: "liable for.'

51. Admit or deny that the person made liable by Congress at Section 1461 is a withholding agent for nonresident aliens.

52. Admit or deny that the United States Supreme Court has held in *C.I.R. v. Acker* , 361 U.S. 87, 89 (1959), and in *U.S. v. Calamaro*, 354 U.S. 351, 358-359 (1957), that a regulation that purports to create a legal requirement not imposed by Congress in the underlying statute is invalid.

53. Admit or deny that regulation 26 CFR 1.1-1 uses the following phrase:

"...all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States."

54. Admit or deny that the statute the above regulation (26 CFR 1.1-1) implements, i.e., 26 U.S.C. 1, nowhere uses the word "liable" to describe the income tax (allegedly) imposed in that section.

55. Admit or deny that IRS Form 668-A(c)(DO) is the Notice of Levy form routinely delivered to private, non-governmental employers by the IRS to institute distraint (i.e., wage seizures) against their workers.

[See IRS Form 668-A(c)(DO)]

56. Admit or deny that statute 26 U.S.C. 6331(a) specifically identifies that IRS administrative levies (i.e., without a judicial Order) may only be made against the following individuals:

"(a)...Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official."

57. Admit or deny that although Notice of Levy form (i.e., Form 668-A(c)(DO)) cites much of the levy statute found at 26 U.S.C. §6331, paragraph (a) (*see immediately above*) is DELETED (not shown) on the form.

58. Admit or deny that there is NO federal statute which explicitly imposes any legal obligation upon ordinary Americans to pay a direct, un-apportioned tax on the fruits of their labor.

59. Admit or deny that absent a valid judicial order, there is NO federal statute explicitly imposing any legal obligation upon, nor providing any legal authority for American companies to unilaterally seize or withhold the ordinary wages and salaries of their American workers or convert those monies to the Government.

60. Admit or deny that in criminal income tax prosecutions, the Department of Justice routinely fails, and is unable to cite -- even in the indictment itself -- any federal statute specifically requiring the payment of individual income taxes.

61. Admit or deny that the Founders, in the 1774 Journals of the Continental Congress, expressly articulated the following:

**“If money is wanted by Rulers who have in any manner oppressed the People, they may retain it until their grievances are redressed, and thus peaceably procure relief, without trusting to despised petitions or disturbing the public tranquility.”**

1774, *Journals of the Continental Congress, 1:105-113* [emphasis added]

62. Admit or deny that one of the most precious Rights the People enjoy is a government strictly limited by written Laws and that where Law is found to be wanting, no man can be Free.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ by:

**First Name**

**Last Name**

**City**

**State**

\_\_\_\_\_