



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

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Honorable Roscoe Bartlett
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Bartlett:

We are responding to your letter of January 30, 2002, transmitting questions submitted to you by Robert Schultz on behalf of the We The People Foundation (WTP).

When the Senate Finance Committee held its hearing on tax schemes, scams, and cons, the Committee appropriately declined to offer WTP a forum to advocate defiance of the tax laws. WTP is not an advocate of tax reform. Instead, it advocates violations of the existing tax laws, raises frivolous arguments to excuse illegal conduct, and has exhibited disrespect for the Judiciary, the Congress, the Executive Branch, and the Constitution. WTP's supposed "questions" have been answered many times. WTP will continue to rephrase and reiterate its questions because it does not like the clear answers it receives in court. WTP's arguments consistently are rejected in Federal courts.

The Department of Justice is responsible for prosecuting Federal tax crimes and litigating Federal civil tax cases. The Department's Tax Division will continue to bring appropriate legal action to uniformly enforce the tax laws Congress enacts. It would not be appropriate for the Department to lend credibility to the WTP group and their frivolous claims. For the reasons set out below, we respectfully decline to answer the individual questions posed by WTP.

Although WTP is capable of formulating countless questions, its claims fall into a few categories. WTP advocates disobedience of the tax laws and justifies its claims by questioning the authority of all branches of government, in the following general ways:

- Federal judges have acted illegally when they have sustained the constitutionality of the income tax laws, concluded that the enforcement powers given to the IRS are lawful, and rejected various interpretations of the internal revenue laws supported by WTP;
- Congress has acted illegally in adopting every income tax law since 1913;

- The Executive Branch has acted illegally in enforcing these laws and collecting income taxes.

Federal courts. WTP's positions on the constitutionality and interpretation of the internal revenue laws have, time and again, been raised in the Federal courts by tax protesters. There is no ambiguity in the law or in the views of the courts on these issues. In opinions sustaining criminal tax convictions, affirming the assessment of civil tax penalties, and imposing sanctions, the courts have uniformly rejected those claims as frivolous. As explained by Judge Easterbrook in *Coleman v. Commissioner*, 791 F.2d 68, 69 (7th Cir. 1986):

Some people believe with great fervor preposterous things that just happen to coincide with their self-interest. "Tax protesters" have convinced themselves that wages are not income, that only gold is money, that the Sixteenth Amendment is unconstitutional, and so on. These beliefs all lead – so tax protesters think – to the elimination of their obligation to pay taxes. The government may not prohibit the holding of these beliefs, but it may penalize people who act on them.

As Judge Easterbrook observed, the claimed beliefs of tax protesters are generally consistent with their personal self-interest. Even if these beliefs were sincerely held, it would not make them correct. In the United States of America, the Federal judiciary decides what the law means.

Congress. Congress has likewise considered and exposed as completely without merit the constitutional and statutory interpretations cited by WTP in support of its theories. The Congressional Research Service carefully studied these issues and refuted the baseless interpretations that the WTP continues to press. See CRS Report for Congress, *Frequently Asked Questions Concerning the Federal Income Tax* (Updated May 7, 2001).

On April 5, 2001, the Senate Finance Committee, under the chairmanship of Senator Charles Grassley, held a hearing specifically to warn taxpayers about illegal tax schemes, scams, and cons. At that hearing, newspaper advertisements published by the WTP group urging taxpayers to defy the tax laws were prominently displayed as *examples* of illegal tax schemes and as a warning that those who follow such advice may be subjecting themselves to criminal prosecution, penalties and judicially-imposed sanctions. The Chairman and members of the Finance Committee strongly urged the IRS to be more aggressive in attacking illegal tax schemes, scams, and cons.

Executive Branch. The Justice Department and the IRS have intensified their efforts to bring to justice people who defy the tax laws and raise frivolous theories to justify their conduct. The Department's efforts include criminal prosecutions and injunction suits to shut down tax scams. We are working with the IRS to increase its referral of cases and bring more such tax cheaters to justice.

In two cases brought by the Justice Department, the courts recently granted injunctions against unscrupulous individuals and corporations, including Harold E. Hearn, Atlanta, Georgia, and Joseph N. Sweet, Bradenton, Florida. One case involved the promotion of tax scams, and the second concerned baseless legal positions taken on returns prepared for others. Injunction suits are also pending against two individuals whose actions are prominently mentioned in WTP's advertising material, David Bosset, Clearwater, Florida, and Thurston Bell, Hanover, Pennsylvania, for their actions in promoting illegal tax schemes.

In addition to investigating those who defy the tax laws and promoters of tax scams, the IRS has published a series of Tax Fraud Alerts to explain the falsity of claims made by tax scammers. www.ustreas.gov/irs/ci/ As these Tax Fraud Alerts explain, people who violate the tax laws face both civil and criminal penalties.

Many people who defraud honest American taxpayers by using the scams and schemes promoted by WTP have been convicted by juries of their peers and sentenced to serve time in prison. The IRS web site chronicles many examples of such criminal prosecutions.

On the legislative front, the President in his recent budget message asked Congress to enact several proposals to further deter tax violations of the sort advocated by WTP. The legislation requested by the President would raise the frivolous return penalty from \$500 to \$5,000 and would impose a penalty of \$5,000 for making a frivolous collection due process hearing request or submitting a frivolous offer in compromise or a frivolous request for an installment payment agreement.

The We the People Foundation and other promoters of tax fraud schemes are free to advocate tax reform, but they are obligated to comply with the existing tax laws.

Please do not hesitate to contact this office if we can be of assistance in the future.

Sincerely,



Daniel J. Bryant
Assistant Attorney General