

# FIRST AMENDMENT PETITION FOR REDRESS OF GRIEVANCES

## Relating to Violations of the United States Constitution HEALTHCARE (Supreme Court Decision on Patient Protection and Affordable Care Act of 2010)

**WE THE FREE PEOPLE OF THE UNITED STATES**, *by and through the unalienable, individual Rights guaranteed by the Declaration of Independence and the Constitution for the United States of America, hereby Petition the President of the United States and the members of the House of Representatives and Senate of the United States Congress for Redress of our Grievances, to honor their Oaths or Affirmations of office and their constitutional obligations by responding to this Petition within forty (40) days, providing a formal acknowledgement of its receipt with a rebuttal of its legal arguments and statement of facts, or demonstrating a good faith effort to comply with its remedial instructions.*

**WHEREAS**, by the terms and conditions of the Declaration of Independence and Constitution for the United States of America, We the People have expressly established a republican form of government, empowering it to act only in certain ways, while purposely and patently restricting and prohibiting it from acting in certain other ways without Amendment, and;

**WHEREAS**, We the People are entitled, by Right, to constitutionally valid laws from Congress and the President, and a Supreme Court that holds Congress and the President accountable to the Constitution, and;

**WHEREAS**, on June 28, 2012, five of the nine Justices of the Supreme Court upheld the most controversial provision of the Patient Protection and Affordable Care Act (“Obamacare”) – that is, Section 5000A, popularly known as the “individual mandate,” and;

**WHEREAS**, the Supreme Court has reversed its 138 year old ruling that an individual’s labor is his personal property, and;

**WHEREAS**, the Supreme Court ruled, in 1884, “The property which every man has is his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable.” (*Butchers’ Union Slaughter-House and Live-Stock Landing Company v. Crescent City Live-Stock Landing and Slaughter-House Company*, 111 U.S. 746), and;

**WHEREAS**, the Supreme Court ruled, in 2012, “Under the mandate, if an individual does not maintain health insurance, the only consequence is that he must make an additional payment to the IRS when he pays his taxes...For taxpayers who do owe the payment, its amount is determined by such familiar factors as taxable income, number of dependents, and joint filing

status, Sections 5000A(b)(3), (c)(2), (c)(4). The requirement to pay is found in the internal revenue code and enforced by the IRS, which – as we previously explained – must assess and collect it ‘in the same manner as taxes’... The payment is also plainly not a tax on the ownership of land or personal property. The shared responsibility payment is thus not a direct tax that must be apportioned among the several states. *National Federation of Independent Business et al. v. Sebelius, Secretary of Health and Human Services, et al. Pages 32-41 (U.S. Supreme Court, 2012)*, and;

**WHEREAS**, under 5000A, those who can afford to but do not purchase health insurance will be required to make an additional payment to the IRS for each month they go without the insurance. The payment will be exacted from the worker’s income and will be legally **unavoidable**, and;

**WHEREAS**, the Obama administration argued in Court that what it called the “shared responsibility payment” (individual mandate) was authorized under the Commerce Clause, and;

**WHEREAS**, Judge Roberts ruled the Commerce Clause does NOT authorize this type of payment, he then held Congress had the power under the “Tax Clause” to exact the payment, and;

**WHEREAS**, Congress does **not** have the power under the Tax Clauses of the Constitution to require the People to buy a product or pay a tax to the Government for not purchasing the product, **without apportioning the tax among the several states**, and; **WHEREAS**, Congress’s taxing power is specified in three sections of Article I:

#### **Article I, Section 2, Clause 3:**

“Representatives and direct taxes shall be **apportioned** among the several states which may be included within this Union ....”

#### **Article I, Section 8, Clause 1:**

“The Congress shall have power to lay and collect taxes, duties, imposts and excises... but all duties, imposts and excises shall be **uniform** throughout the United States.”

#### **Article I, Section 9, Clause 4:**

“No capitation, or other direct, tax shall be laid, unless **in proportion** to the census or enumeration herein before directed to be taken,” and

**WHEREAS**, Of all the mandates in the Constitution, there is only one that is repeated twice: **direct taxes must be apportioned**. It means exactly what it says, and

**WHEREAS**, by these three clauses, the People and the States grant Congress the power to impose two types of taxes, Direct and Indirect, but under strictly limited conditions:

- 1) **Direct Taxes**, identified as “Capitation and other direct taxes,” are taxes which, if imposed by Congress, must be equally **apportioned** among the People according to the last census. For example, if the Congress decided to exact a certain amount of money by imposing a Direct tax (**a tax the People cannot legally avoid**) and California has 13% of the Union’s representation based on population as ascertained by the census, then California must raise 13% of the total amount of the Direct Tax imposed by Congress, and;
- 2) **Indirect Taxes**, identified as “Duties, Imposts and Excises,” which, if imposed by Congress, must be **uniform** throughout the United States. For example, if Congress decided to exact money by imposing a Duty, Impost or Excise (a tax to be paid on the exportation, importation or purchase/consumption of a good), the amount of the tax must be the same no matter the point of importation, exportation or sale. Not being “Direct,” apportioned and unavoidable, these “Indirect” taxes are uniform and importantly, **legally avoidable**, and;

**WHEREAS**, Judge Roberts, on page 41, held the tax is “not a direct tax that must be apportioned.” Quoting:

A tax on going without health insurance does not fall within any recognized category of direct tax. It is not a capitation... The payment is also plainly not a tax on the ownership of land or personal property. The shared responsibility payment is thus not a direct tax that must be apportioned among the several States, and

**WHEREAS**, the purpose of an act of Congress must be found in its natural operation and effect. In this case the tax under Section 5000A is a compulsory contribution to government revenue, levied by the government on workers’ **income**; a worker’s income, the fruits of his labor, is his personal property, and

**WHEREAS**, Roberts, on page 33, describes how the payment will be exacted from **income**. Quoting:

The “[s]hared responsibility payment,” as the statute entitles it, is paid into the Treasury by “taxpayer[s]” when they file their tax returns. 26 U. S. C. §5000A(b). It does not apply to individuals who do not pay federal income taxes because their household income is less than the filing threshold in the Internal Revenue Code. §5000A(e)(2). For taxpayers who do owe the payment, its amount is determined by such familiar factors as taxable income, number of dependents, and joint filing status. §§5000A(b)(3), (c)(2), (c)(4). The requirement to pay is found in the Internal Revenue Code and enforced by the IRS, which—as we previously explained—must assess

and collect it “in the same manner as taxes.” *Supra*, at 13–14. This process yields the essential feature of any tax: it produces at least some revenue for the Government. *United States v. Kahriger*, 345 U. S. 22, 28, n. 4 (1953). Indeed, the payment is expected to raise about \$4 billion per year by 2017, and

**WHEREAS**, a worker’s income is indeed his personal property; the source of any worker’s income is his labor; both his labor and the fruits of his labor (his income) are his *personal property*, long held to be a natural Right, and;

**WHEREAS**, that a worker’s labor is personal property falling within the zone of interests to be protected by the Constitution has been affirmed many times by the Supreme Court, and;

**WHEREAS**, for instance, in 1884, the Supreme Court had this to say in *Butchers' Union Slaughter-House and Live-Stock Landing Company v. Crescent City Live-Stock Landing and Slaughter-House Company*, 111 U.S. 746. Quoting:

As in our intercourse with our fellow-men certain principles of morality are assumed to exist, without which society would be impossible, so certain inherent rights lie at the foundation of all action, and upon a recognition of them alone can free institutions be maintained. These inherent rights have never been more happily expressed than in the Declaration of Independence, that new evangel of liberty to the people: "We hold these truths to be self-evident" -- that is so plain that their truth is recognized upon their mere statement -- "that all men are [\*757] endowed" -- not by edicts of Emperors, or decrees of Parliament, or acts of Congress, but "by their Creator with certain inalienable rights" -- that is, rights which cannot be bartered away, or given away, or taken away except in punishment of crime -- "and that among these are life, liberty, and the pursuit of happiness, and to secure these" -- not grant them but secure them -- "governments are instituted among men, deriving their just powers from the consent of the governed."

Among these inalienable rights, as proclaimed in that great document, is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give to them their highest enjoyment.

The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and have been followed in all communities from time immemorial, must, therefore, be free in this country to all alike upon the same conditions. The right to pursue them, without let or hindrance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of citizens of the United

States, and an essential element of that freedom which they claim as their birthright.

It has been well said that, "**The property which every man has is his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable.** The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him. As it hinders the one from working at what he thinks proper, so it hinders the others from employing whom they think proper." Adam Smith's *Wealth of Nations*, Bk. I. Chap. 10. (emphasis added), and;

**WHEREAS**, in 1915, in *Coppage v. Kansas*, 236 U.S. 1 at 14, the Supreme Court again declared a worker's labor as his personal property, and well within the zone of interest protected by the Constitution.

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. If this right be struck down or arbitrarily interfered with, there is a substantial impairment of liberty in the long-established constitutional sense. The right is as essential to the laborer as to the capitalist, to the poor as to the rich; for the vast majority of persons have no other honest way to begin to acquire property, save by working for money.

An interference with this liberty...so disturbing of equality of right, must be deemed to be arbitrary, unless it be supportable as a reasonable exercise of the police power of the State, and;

**WHEREAS**, in 1915, in *Truax v. Raich* 239 U.S. at 41, the Supreme Court held:

The right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [Fourteenth Amendment](#) to secure, and;

**WHEREAS**, Roberts, on page 41, admits, "it should be troubling to permit Congress to impose a tax for not doing something." Quoting:

"There may, however, be a more fundamental objection to a tax on those who lack health insurance. Even if only a tax, the payment under §5000A(b)

remains a burden that the Federal Government imposes for an omission, not an act. If it is troubling to interpret the Commerce Clause as authorizing Congress to regulate those who abstain from commerce, perhaps it should be similarly troubling to permit Congress to impose a tax for not doing something,” and;

**WHEREAS**, Judge Roberts then addressed this concern. Quoting:

Three considerations allay this concern.

First, and most importantly, it is abundantly clear the Constitution does not guarantee that individuals may avoid taxation through inactivity. A capitation, after all, is a tax that everyone must pay simply for existing, and capitations are expressly contemplated by the Constitution. The Court today holds that our Constitution protects us from federal regulation under the Commerce Clause so long as we abstain from the regulated activity. But from its creation, the Constitution has made no such promise with respect to taxes, and;

**WHEREAS**, however, We the People *are* protected from federal taxation so long as we abstain from engaging in importation, exportation and consumption of those goods taxed uniformly and from owning real and personal property taxed in proportion to representation based on population as ascertained by the census (see definition of “Indirect and “Direct” Taxes, above), and;

**WHEREAS**, Judge Roberts continued to address concern over upholding a tax on income for not doing something. Quoting:

Whether the mandate can be upheld under the Commerce Clause is a question about the scope of federal authority. Its answer depends on whether Congress can exercise what all acknowledge to be the novel course of directing individuals to purchase insurance. Congress’s use of the Taxing Clause to encourage buying something is, by contrast, not new. Tax incentives already promote, for example, purchasing homes and professional educations. See 26 U. S. C. §§163(h), 25A. Sustaining the mandate as a tax depends only on whether Congress *has* properly exercised its taxing power to encourage purchasing health insurance, not whether it *can*. Upholding the individual mandate under the Taxing Clause thus does not recognize any new federal power. It determines that Congress has used an existing one, and;

**WHEREAS**, however, there is a sharp difference between:

- a) existing tax incentives (credits) designed to coax People into purchasing a product (i.e., a home, professional education or energy-efficient windows) by reducing one’s income taxes if they make the purchase, and

b) mandating and forcing people to purchase a product by increasing their income taxes if they chose not to purchase the product, and;

**WHEREAS**, in addition, whether the tax adds to income or detracts from income is of no consequence. The object of the tax is still the fruits of the worker's labor, his income, i.e., his personal property. **If the tax is directed at personal property it must be apportioned**, and;

**WHEREAS**, Judge Roberts continued to address concern over increasing a worker's income tax for not buying a product the Government wants you to purchase. Quoting:

Second, Congress's ability to use its taxing power to influence conduct is not without limits. A few of our cases policed these limits aggressively, invalidating punitive exactions obviously designed to regulate behavior otherwise regarded at the time as beyond federal authority. See, e.g., *United States v. Butler*, 297 U. S. 1 (1936); *Drexel Furniture*, 259 U. S. 20. Page \_\_\_\_

More often and more recently we have declined to closely examine the regulatory motive or effect of revenue-raising measures. See *Kahriger*, 345 U. S., at 27–31 (collecting cases). We have nonetheless maintained that ““there comes a time in the extension of the penalizing features of the so-called tax when it loses its character as such and becomes a mere penalty with the characteristics of regulation and punishment.”” *Kurth Ranch*, 511 U. S., at 779 (quoting *Drexel Furniture*, *supra*, at 38).

We have already explained that the shared responsibility payment's practical characteristics pass muster as a tax under our narrowest interpretations of the taxing power. *Supra*, at 35–36. Because the tax at hand is within even those strict limits, we need not here decide the precise point at which an exaction becomes so punitive that the taxing power does not authorize it. It remains true, however, that the ““power to tax is not the power to destroy while this Court sits.”” *Oklahoma Tax Comm'n v. Texas Co.*, 336 U. S. 342, 364 (1949) (quoting *Panhandle Oil Co. v. Mississippi ex rel. Knox*, 277 U. S. 218, 223 (1928) (Holmes, J., dissenting)), and

**WHEREAS**, however, the individual mandate does not pass constitutional muster, as shown herein, and therefore SHOULD NOT BE TOLERATED. We the People and the States should never trust that any of the three branches of the federal government will be guided by the Constitution in all that they do. The Justices of the Supreme Court often disagree with one another for political or ideological reasons or otherwise. Sometimes the Court overrules its earlier decision(s), and

**WHEREAS**, Judge Roberts continued to address concern over this ruling. Quoting:

Third, although the breadth of Congress's power to tax is greater than its power to regulate commerce, the taxing power does not give Congress the same degree of control over individual behavior. Once we recognize that Congress may regulate a particular decision under the Commerce Clause, the Federal Government can bring its full weight to bear. Congress may simply command individuals to do as it directs. An individual who disobeys may be subjected to criminal sanctions. Those sanctions can include not only fines and imprisonment, but all the attendant consequences of being branded a criminal: deprivation of otherwise protected civil rights, such as the right to bear arms or vote in elections; loss of employment opportunities; social stigma; and severe disabilities in other controversies, such as custody or immigration disputes.

By contrast, Congress's authority under the taxing power is limited to requiring an individual to pay money into the Federal Treasury, no more. If a tax is properly paid, the Government has no power to compel or punish individuals subject to it. We do not make light of the severe burden that taxation—especially taxation motivated by a regulatory purpose—can impose. But imposition of a tax nonetheless leaves an individual with a lawful choice to do or not do a certain act, so long as he is willing to pay a tax levied on that choice, and;

**WHEREAS**, however, Judge Roberts acknowledges in footnote 11, the Federal Government will bring its full weight to bear on the worker who refuses to pay the tax imposed for not purchasing the product in question (health insurance). It will be unlawful not to buy the health insurance and not pay the resulting tax and those who do neither will be prosecuted. Quoting:

<sup>11</sup>Of course, individuals do not have a lawful choice not to pay a tax due, and may sometimes face prosecution for failing to do so (although not for declining to make the shared responsibility payment, see 26 U. S. C. §5000A(g)(2)). But that does not show that the tax restricts the lawful choice whether to undertake or forgo the activity on which the tax is predicated. Those subject to the individual mandate may lawfully forgo health insurance and pay higher taxes, or buy health insurance and pay lower taxes. The only thing they may not lawfully do is not buy health insurance and not pay the resulting tax, and;

**WHEREAS**, with this new tax against income, as with other direct, un-apportioned taxes, one of the greatest landmarks defining the boundary between the Nation and the States of which it is composed disappears, and with it one of the bulwarks of private rights and private property, and **WHEREAS**, included herein are several arguments, based on philosophical roots and actual



U.S. Supreme Court case law, that the sanctity of income as personal, private property is a foundational element of American Freedom, and

**WHEREAS**, Section 5000 of the Patient Protection and Affordable Health Care Act, violates the Letter and Spirit of the Constitution for the United States of America, particularly the principle of Enumerated Powers, Article I, Section 2, Clause 3, Article I, Section 8, Clause 1 and Article I, Section 9, Clause 4, and;

**WHEREAS**, the Individual Mandate of Section 5000A is a direct challenge and disregard of this vital element of our Freedom and deserves nothing less than a responsive response to this First Amendment Petition for Redress of this Grievance, and

**WHEREAS**, Section 5000 of the Patient Protection and Affordable Health Care Act, a bill that originated in the Senate, violates the Letter and Spirit of Article I, Section 7, Clause 1 of the Constitution, and

**WHEREAS**, the First and Ninth Amendments to the Bill of Rights guarantee to every American the unalienable Right to hold the government accountable to each and every principle, prohibition, restriction and mandate of the Declaration of Independence and Constitution for the United States of America,

### **NOW THEREFORE:**

**WE THE PEOPLE** *do hereby seek the following Remedy and Instruct the members of Congress and the President to respond to this Petition as follows:*

1. Within ten (10) days following the service of this First Amendment Petition for Redress, the Congress of the United States and the President shall provide the We the People Congress, Inc., America's Constitution Watch, with a formal acknowledgement of its receipt, and
2. Within forty (40) following the service of this First Amendment Petition for Redress, the Congress of the United States and the President shall provide the We the People Congress, Inc., America's Constitution Watch, with a rebuttal of its facts and legal arguments, or demonstrate a good faith effort to repeal Section 5000A of the Patient Protection and Affordable Health Care Act.

**Respectfully submitted this \_\_\_\_\_ day of 20\_\_, by:**

**First Name**

**Last Name**

**City**

**State**