

United States Senate

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AGING

Mr. Mark Pastir
90 Sunnyhill Drive
Beaver Falls, Pennsylvania 15010-2261

Dear Mr. Pastir,

Thank you for contacting me regarding your questions about the Internal Revenue Code. I appreciate hearing from you.

I understand your concerns of over-taxation on the working middle class. Throughout my tenure in Congress, I have strongly supported legislation which would provide tax relief to working families. I supported the 1997 Taxpayer Relief Act, which included the \$500 per child family tax credit, a capital gains tax cut, estate tax reform, and education tax incentives. During the 106th Congress, I supported many pieces of legislation which would provide tax relief to working individuals and families. For instance, I cosponsored S. 410, a bill which would allow Congress to cut wasteful discretionary spending programs to finance tax cuts, and I cosponsored S. 12, which would remove the marriage tax penalty for more than 21 million married couples.

In 2001, Congress passed and President Bush signed into law H.R. 1836, the Economic Growth and Tax Relief Reconciliation Act. This important legislation includes a reduction in the individual income tax rates that apply to taxable income, increases the tax code's per-child tax credit, provides reductions in the standard deduction for married couples, and phases out the federal estate tax. Rest assured, as the 107th Congress progresses, I will continue to advocate reforming both the tax code and its administration to reduce its complexity and burden on taxpayers. I will also work to allow hard-working Americans to keep more of what they earn.

Please consider the following information I gathered directly from the United States Treasury Department. I hope these points adequately respond to your concerns:

1. The United States Constitution, Article 1, Section 8, Clause 1, states "The Congress shall have the Power To lay and collect Taxes, Duties, Imports and Excises to pay the Debts and provide for the common Defense and general Welfare of the United States."
2. The Sixteenth Amendment to the Constitution, ratified on February 3, 1913, states "The Congress shall have the power to lay and collect taxes on income, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."
3. Congress used the power granted by the Sixteenth Amendment of the Constitution and made laws requiring all individuals to pay taxes.

4. Congress has delegated to the Internal Revenue Service (IRS) the responsibility of administering and enforcing these laws known as the Internal Revenue Code. Congress enacts the tax laws and the IRS enforces them.
5. Courts have historically held there are no Constitutional or legal grounds for noncompliance with filing tax returns or paying taxes as prescribed by law.
6. The term “voluntary compliance” means that each of us is responsible for filing a tax return when required and for determining and paying the correct amount of tax.
7. Failing to file required returns and failing to pay taxes may result in criminal prosecution and/or civil penalties.
8. While taxpayers have the right to contest their tax liabilities in the courts, taxpayers do not have the right to violate and disobey tax laws.

You may also be interested in the following information from the Treasury Department which responds to a variety of false or misleading arguments for seeking to justify willful noncompliance with tax law:

Constitutional Arguments: Filing a Form 1040 violates the Fifth Amendment right against self-incrimination or the Fourth Amendment right to privacy.

Response: The courts have consistently held that disclosure of the routine financial information required on a tax return does not incriminate an individual or violate the right to privacy.

Religious Arguments: Use of the freedom of religion clause of the First Amendment by taking a vow of poverty or fraudulently claiming charitable contributions of 50% or more of your adjusted gross income.

Response: Claiming a vow of poverty, or claiming fraudulent charitable contributions to a church for money which is ultimately used to pay personal expenses is not legal.

Internal Revenue Code (IRC) Arguments: (1) The filing and paying of tax is voluntary. (2) The Internal Revenue Code doesn't apply to me because I am not a government employee or I am a resident of a sovereign state.

Response: The tax law is found in Title 26 of the United States Code. Section 6012 of the Code makes clear that only individuals whose income falls below a specified level do not have to file returns. While our tax system is based on self-assessment and reporting, compliance with tax laws is mandatory. State citizenship does not negate the applicability of the IRC on all individuals working and residing in the United States.

Wages Are Not Income Arguments: Labor worth a certain amount is exchanged for money worth the same amount and therefore there is no income to be taxed.

Response: The arguments that taxes on incomes derived from property are unconstitutional, or that income is limited to gain or profit are consistently dismissed by the courts. Congress has determined (through the IRC), that all income is taxable unless specifically excluded by some part of the Internal Revenue Code.

Forming a Trust Argument: Forming a business trust to hold your income and assets will avoid taxes. A family estate trust will allow you to reduce or eliminate your tax liability.

Response: Establishing a trust, foreign or domestic, for the sole purpose of hiding income and assets from taxation is illegal and will not absolve you of your tax liability.

As you may know, there are often individuals who, for a variety of reasons, argue that various taxes are illegal. These individuals may use false, misleading, or unorthodox tax advice to gain followers. The courts have often rejected their arguments as frivolous, and now routinely impose financial penalties for raising such defenses.

The promoters of this tax advice often charge hefty fees or commissions to subscribe to their philosophies and ideas. Unfortunately, in the end, citizens may pay more in penalties, interests, and legal fees for following their bad advice.

Many innocent taxpayers, deceived by such false information, have found themselves in financial ruin as a result. Believe it or not – a number of individuals who market these ideas actually pay taxes.

The IRS has focused its efforts against willful nonfilers and noncompliance schemes by adopting a twofold approach:

1. Assisting taxpayers to correct their filing status and comply with the tax law.
2. Vigorously applying both civil and criminal sanctions against individuals who persist in violating the tax law.

You may also wish to visit the following IRS website to learn more about objections to the federal tax laws: http://www.irs.gov/pub/irs-utl/friv_tax.pdf.

Thank you again for contacting me. If I can be of further assistance, please feel free to call on me again.

Sincerely,

A handwritten signature in black ink that reads "Rick Santorum". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Rick Santorum
United States Senate

RJS\sdc