

PRESIDENT'S ADVISORY
PANEL
ON FEDERAL TAX REFORM

2005 MAR 28 P 5: 23

An average American's commentary on our present
income tax system, the IRS, and what should be
implemented for tax reform and why.

Written For:

The President's Advisory Panel on Federal Tax Reform

**The President's Advisory Panel on Federal Tax Reform
1440 New York Avenue NW - Suite 2100
Washington, DC 20220**

comments@taxreformpanel.gov

March 9, 2005

By

**Gary W. Lacy
7969 Jennet Street
California Republic – America
909-980-4151
ffc36a@charter.net**

I want to thank all of you for serving on this panel and addressing tax reform, an issue that is so vitally important to every American and a topic that is, in fact, decades overdue. I also want to thank you for allowing me to address you in regards to simplifying our present income tax system. I believe I have the best possible reason for addressing the panel in regards to this issue of tax reform, simply because: **I am an honest, hardworking American and have always, to the best of my ability, self-assessed myself for over 25 years and paid the resultant tax. All this makes me fairly representative of the typical American filing an income tax return.**

Furthermore, I am qualified to address this issue for recently, I was involved with an **“Audit from Hell,”** at the hands of the Internal Revenue Service (IRS). The IRS, through this audit process, intentionally and/or ignorantly lied, misrepresented facts, distorted the truth and labeled me as someone who questioned the validated of the 16th amendment – which in fact, I have never doubted. Also, without proper legal authority, the IRS was illegally monitoring my communications which resulted in agents intercepting my overnight UPS letter addressed to the IRS. In this incident, the agents told the United Parcel Service personnel that they needed to inspect my package due to them, on good authority, suspecting that I was a **“terrorist!”** There is something terribly wrong when one of our government entities resorts to **“Gestapo”** type tactics, and then uses such against the very people they are beholden to – all to deliberately malign someone. Also, to further this point, under the IRS’s own tape recorded statements, they stated, rather arrogantly, **“There was nothing in your returns that triggered this audit!”** (PLEASE, KNOW I HAVE DOCUMENTED ALL THAT I STATE HERE.)

Also, it is good to note, I have asked the IRS many questions in writing and to date, **over three (3) years later**, I have yet to have any of my very legitimate questions answered. I find the IRS deliberate arrogance not to answer questions submitted to them, just unacceptable and an indictment to the harm they personally caused me, my family, and most likely others they come in contact with.

What I have experienced with the IRS should be an outrage to every American and has led me to a conclusion: **“Anyone who files a tax return has the very real potential of being convicted of some federal crime.”** Why do I make such a statement? For the simple reason that no one could ever fill out a normal tax return with complete accuracy under the law. Also, the IRS routinely uses the **Individual Master File** to hold **deliberately inaccurate and false hearsay information** on thousands of Americans. I am sure our **“Founding Fathers”** would be amazed that what they set forth over 200 years ago would have resulted in a future time where **Americans are in fear** of one of their government entities - not to mention, an IRC that taxes one’s labors. An idea that our **“Founding Fathers” were totally, and unshakably, against!**

Also, in my own personal experience, the IRS did much to hurt my reputation, which resulted in loss of business to me – business lost due to the IRS issuing their **“administrative summonses”**. This **IRS generated summons** is used to gather information from all sorts of places by the intimidation of some non-legal document being presented by the IRS and what I can only refer to, again, as **“Gestapo”** type tactics. In fact, just recently in Queensbury, NY, the courts agreed with my contention, for on **January 25, 2005, the U.S. Court of Appeals for the Second Circuit held that taxpayers cannot be compelled by the IRS to turn over personal and private property to the IRS, absent a federal court order.**

Quoting from the decision (*Schulz v. IRS*, Case No. 04-0196-cv),

“...absent an effort to seek enforcement through a federal court, IRS summonses apply no force to taxpayers, and no consequence whatever can befall a taxpayer who refuses, ignores, or otherwise does not comply with an IRS summons until that summons is backed by a federal court order...[a taxpayer] cannot be held in contempt, arrested, detained, or otherwise punished for refusing to comply with the original IRS summons, no matter the taxpayer's reasons, or lack of reasons for so complying.”

This ruling, by the **U.S. Court of Appeals for the Second Circuit**, was in agreement with what I have contended for years about the lack of legal authority of the IRS summons. Just maybe this is why the IRS has chosen to deliberately malign me by their lies, misrepresentations and them trying to label me as a terrorist – **“Demonize anyone who might question the IRS’s tactics!”** (Just addressing this panel will most

likely have negative consequences for me and others who do likewise. Also, take note, that most likely, by the time this panels makes its recommendations known, the IRS will step up their “**Demonizing**” of We, the people.)

To be totally honest, from my own experience, I found that the individual IRS agent are typically **decent “Public Hireling Servant”** who do not want to violate anyone’s Rights, but do, simply upon their superiors so directing them to do just that. Most of the IRS agents that I came in contact with were, for the most part, only trying to do their job – but in doing so, routinely violate our unalienable Rights.

Bottom line, the tax code, along with the IRS, is the single largest impediment to growing our economy and to our freedoms protected under the Constitutions (State Republics and U.S.). Constitutions do not grant us Rights - **Rights that we are endowed with at our very existence** – but, rather Constitutions are there to protect every American’s self-evident Rights from an ever-intruding government. It is an ever-intruding government, infringing an American’s Rights, that is epitomized in the daily operations of the IRS.

There is but one option to tax code simplification/reform:

1. **Eliminate the Internal Revenue Service** to make tax collections equitable and fairer to all, by going to a “**National Consumption Tax**” (NCT) - such a change will accomplish a number of things:
 - A. The “NCT” will remove the punitive, freedom robbing and corrupt internal revenue code (IRC).
 - B. The “NCT” will free every American’s legitimate fear they have of the IRS – a fear that goes against everything that is embodied in being an American.
 - C. The “NCT” will enhance the revenue stream to our government on a consistent basis – no more waiting on estimated quarterly payments and the like.
 - D. The “NCT” will free business from the time consuming and expensive burden of withholding.

- E. The “NCT” will free every American from the paperwork they must assemble, and maintain, just to be in compliance of the present punitive IRC and its inefficiency of revenue collection.
- F. The “NCT” will free the workings of our economy from the expense of filing returns – a savings estimated to be in the billions – billions that would now be freed to save, invest and spend, which would further the growth of our economy – **resulting in more revenues to the national treasury.**
- G. The “NCT” will free all Americans, by moving taxes to a “*fair-share, pay-as-you-go-system*”, by making the tax burden move to consuming, instead of penalizing, one who earns.
- H. The “NCT” will **eliminate an agency’s (IRS) huge budget and their inefficiency** – for Pete’s sake the IRS can not even account for the moneys they spend, but yet they expect us to account for every penny we earn, consume and invest – and if we can’t, we are then in violation of some federal law!
- I. The “NCT” will tax the huge segment of our society that do not even file a return - under the IRS’s own research, non-filers total in the millions and billions of lost revenues. **The result will be more revenue to our national treasury!**
- J. The “NCT” will tax the huge illegal activities of people who are in organized crime, drug dealing and the like – at present they do not file returns and if they do, they under report, but yet they all consume. A “**National Consumption Tax**” will now generate federal revenues from these illegal activities, where at present nothing is collected. **The result will be more revenue to our national treasury!**
- K. The “NCT” will tax the illegal aliens (no such thing as an illegal immigrant*). Illegal aliens work here, and I believe, are for the most part, well-intentioned individuals – but it

is a simple fact that illegal aliens consume far more from the system than they put in. With a **“National Consumption Tax”**, the federal government will be collecting revenues from illegal aliens. **The result will be more revenue to our national treasury!**

L. The **“NCT”** will tax all the immigrants who come visiting to this country for vacations, business and education. **The result will be more revenue to our national treasury!**

M. Also, and this cannot be minimized, a **“National Consumption Tax”** replacing our present system, will take power away from our politicians who routinely use the present income tax, in the form of the internal revenue code, to pit one group of people against another. **The result would be a more serving statesman, instead of a self-serving politician just looking for votes!**

I know that there is another possibility for tax reform, in the form of a **“Flat Tax”** system. Although a **“Flat Tax”** would be far better than what we presently have, the very idea of taxing one’s labor just goes against all that our **“founding fathers”** believed in. Taxing labor steals the incentive for all to better their **Life, Liberty** and pursuits of **Happiness**. But the one thing this commission should **NOT** recommend, a combination of a **“National Consumption Tax”** and a **“Flat Tax”** – **Please, please, please** - one or the other, **not both** – thank you very much!

In closing, taxing one’s income, via the IRC, encourages the IRS to intimidate and malign the very people that our government is supposed to protect and secure. Therefore, I want to reiterate my preference for **true tax reform, by eliminating the IRS/IRC and going to a “National Consumption Tax”**. A **“National Consumption Tax”** will truly tax the huge underground economy – thus, taxing funds that are not presently being taxed, which will mean more revenue to our national treasury, not less, **“National Consumption Tax”** will be less punitive towards retirees since much of their consumer years are now behind them. But whether it is a **“Flat Tax”** or a **“National Consumption Tax”**, the present system is just wrong and counter to the ideals of what it means to be an American.

SUPPORTING
DOCUMENTS

*Notes on “illegal immigrants”

The term is “Illegal Alien”, not as politicians/pundits define it as: “Illegal Immigrant”

There is a huge perversion of our standard legal terminology that is being used to distort the activities of persons who come to this country illegally.

It is wrong to refer to the issue as: “illegal immigration” and/or “illegal immigrant”. For the word immigrant, according to the legal standard (Black’s law dictionary), is defined as: ***The act of entering a country with the intention of settling there permanently.*** Notice the intent ***to reside permanently*** – simply means: to become legally a citizen of the country.

Also in the Black’s Law Dictionary – the word, ***alien***, is defined as: ***A person who resides within the borders of a country but is NOT a citizen or subject of that country; a person not owing allegiance to a particular nation. In the united States, an alien is a person who was born outside the jurisdiction of the united States, who is subject to some foreign government, and who has not been naturalized under the U.S. Law.***

Therefore for someone to state: “Illegal immigrant” is a distortion of the law and our language. It is used to distort someone’s position to say that person is against “immigrants”, thus drawing the attention away from the legitimate issues surrounding an illegal activity – an activity that costs America dearly - to an issue that someone is severely prejudice and/or racist if they are against “immigrants”. On moving this issue from an illegal activity to someone being against immigrants, is a ludicrous position by such individuals, since most Americans are only two to three generations removed from an ancestor who came to this country, legally, as an immigrant and then became an American through a legal process, that requires the immigrant follow all the laws of the land.

Therefore, do not let someone get away with stating the issue is about illegal immigration – the correct term to be used is ***“illegal alien”***. To further this point, Black’s Law Dictionary defines – alien immigrant as: ***An immigrant who has not yet been naturalized.***

Also, there is such a term as “legal aliens”, which would describe someone who enters this country legally, as a student on a visa, or someone who comes to this country on a valid passport to conduct business, to vacation, or lastly, someone who is here under a “green card” to work in this country.

Therefore, an “illegal alien”, as defined in Blacks Law Dictionary, is: ***An alien who enters a country at the wrong time or place, eludes an examination by officials, obtains entry by fraud, or enters into a scam marriage to evade immigration laws, - also termed as an undocumented alien.*** Therefore, the term “undocumented worker” is also incorrect.

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

August Term, 2004

(Argued: December 13, 2004

Decided: January 25, 2005)

Docket No. 04-0196-cv

ROBERT L. SCHULZ,

Plaintiff-Appellant,

—v.—

INTERNAL REVENUE SERVICE and ANTHONY ROUNDTREE,

Defendants-Appellees.

Before :

FEINBERG, STRAUB, and RAGGI, *Circuit Judges.*

Appeal from a judgment in the United States District Court for the Northern District of New York (David N. Hurd, *Judge*), dismissing for lack of subject matter jurisdiction appellant's motions to quash administrative summonses served upon him by the Internal Revenue Service.

AFFIRMED.

1
2 ROBERT L. SCHULZ, *pro se*, Queensbury, N.Y.

3
4 ROBERT P. STORCH, Assistant United States Attorney for the Northern District of New York
5 (Glenn T. Suddaby, United States Attorney, on the brief), Albany, N.Y., *for Defendants-*
6 *Appellees.*
7

8
9
10 PER CURIAM:

11 In May and June 2003 defendant-appellee, the Internal Revenue Service (“IRS”), served
12 plaintiff-appellant, Robert L. Schulz, with a series of administrative summonses seeking
13 testimony and documents in connection with an IRS investigation of Schulz. Schulz filed in the
14 United States District Court for the Northern District of New York motions to quash those
15 summonses. In an order dated October 16, 2003, Magistrate Judge David R. Homer dismissed
16 Schulz’s motions for lack of subject matter jurisdiction, finding that, because the IRS had not
17 commenced a proceeding to enforce the summonses, a procedure described in 26 U.S.C. §7604,
18 Schulz was under no threat of consequence for refusal to comply and, until such time as the IRS
19 chose to pursue compulsion in a United States district court, no case or controversy existed.
20 Magistrate Judge Homer further found that if the IRS did attempt to compel Schulz to produce
21 testimony and documents named in the summonses, the enforcement procedure described in
22 §7604 would provide Schulz with adequate opportunity to contest the requests.

23 Schulz filed an appeal and objection in the District Court. By order dated December 3,
24 2003, the District Court denied those objections and dismissed the appeal. Schulz now appeals
25 from that final decision of the District Court. We assert jurisdiction pursuant to 28 U.S.C. §1291
26 and affirm.

1 It is well-established that “Article III of the Constitution confines the jurisdiction of the
2 federal courts to actual ‘Cases’ and ‘Controversies.’” *Clinton v. City of New York*, 524 U.S. 417,
3 429 (1998) (citations omitted). To demonstrate the standing necessary to invoke the jurisdiction
4 of the federal courts Schulz must “allege personal injury fairly traceable to the defendant’s
5 allegedly unlawful conduct and likely to be redressed by the requested relief.” *Allen v. Wright*,
6 468 U.S. 737, 751 (1984). This injury may not be speculative or abstract, but must be distinct
7 and definite. *Id.*

8 In its present posture, Schulz’s motion does not satisfy this requirement. As the Supreme
9 Court pointed out in *United States v. Bisceglia*, IRS summonses have no force or effect unless
10 the Service seeks to enforce them through a §7604 proceeding. 420 U.S. 141, 146 (1975),
11 *partially superseded by* 26 U.S.C. §7609, as stated in *In re Does*, 688 F.2d 144, 148 (2d Cir.
12 1982). The IRS has not initiated any enforcement procedure against Schulz and, therefore, what
13 amount to requests do not threaten any injury to Schulz. Of course, if the IRS should, at a later
14 time, seek to enforce these summonses, then the procedures set forth in §7604(b) will afford
15 Schulz ample opportunity to seek protection from the federal courts. *See Bisceglia*, 420 U.S. at
16 146; *see also Reisman v. Caplin*, 375 U.S. 440, 447-50 (1964) (denying injunctive relief from
17 IRS summonses because §7604(b) “provides full opportunity for judicial review before any
18 coercive sanctions may be imposed”); *United States v. Tiffany Fine Arts, Inc.*, 718 F.2d 7, 11 (2d
19 Cir. 1983) (“*Bisceglia*] reasoned that by creating the enforcement proceeding mechanism
20 Congress had intended to place the federal courts between the IRS and the person summoned,
21 and that the courts could contain [the threat of IRS overreaching] by narrowing the scope of or

1 refusing to enforce abusive summonses.”).

2 We realize that our holding today stands in direct contradiction to our previous decisions
3 in *Application of Colton*, 291 F.2d 487, 491 (2d Cir. 1961), and *In re Turner*, 309 F.2d 69, 71 (2d
4 Cir. 1962). While reversal of our prior precedent is never a matter we regard lightly, we take no
5 small solace in Judge Friendly’s discussion of *Colton* and *Turner* in *United States v. Kulukundis*,
6 329 F.2d 197 (2d Cir. 1964). There, Judge Friendly, who authored both *Colton* and *Turner*,
7 points out that *Reisman* “seems to destroy the basis underlying decisions of this court which
8 authorized applications to vacate [an IRS] summons (and appeals from their denial) in advance
9 of any judicial proceeding by the Government for their enforcement.” *Id.* at 199. In light of this,
10 we view ourselves today as completing a task begun forty years ago and hold that, absent an
11 effort to seek enforcement through a federal court, IRS summonses apply no force to taxpayers,
12 and no consequence whatever can befall a taxpayer who refuses, ignores, or otherwise does not
13 comply with an IRS summons until that summons is backed by a federal court order. In addition,
14 we hold that if the IRS seeks enforcement of a summons through the courts, those subject to the
15 proposed order must be given a reasonable opportunity to contest the government’s request. If a
16 court grants a government request for an order of enforcement then we hold, consistent with 26
17 U.S.C. §7604 and *Reisman*, that any individual subject to that order must be given a reasonable
18 opportunity to comply and cannot be held in contempt, arrested, detained, or otherwise punished
19 for refusing to comply with the original IRS summons, no matter the taxpayer’s reasons or lack
20 of reasons for so refusing. See *Reisman*, 375 U.S. at 446 (“[O]nly a refusal to comply with an
21 order of the district judge subjects the witness to contempt proceedings.”). Any lesser

1 protections would expose taxpayers to consequences derived directly from IRS summonses,
2 raising an immediate controversy upon their issuance. Holding as we have, however, allows us
3 to hold further that issuance of an IRS summons creates no Article III controversy and, therefore,
4 federal courts do not have jurisdiction over motions to quash IRS summonses in the absence of
5 some effort by the IRS to seek court enforcement of the summons.

6 Consistent with these holdings, we find that, on the facts before us, no force has been
7 applied to Schulz and his request for action is premature. The decision of the District Court
8 dismissing Schulz's motions for want of subject matter jurisdiction is AFFIRMED.¹

¹ This opinion has been circulated to the active members of this Court prior to filing.



The Mercy Corps Mailbox

Dear Mercy Corps,

My husband, Gary, and I have been giving to the poor through Mercy Corps for many years. We have experienced great satisfaction in being part of a group of people who care for "the least of our brothers and sisters."

What we like best about Mercy Corps is their willingness to help wherever there is a need—even if it is not politically or socially popular. They respect the dignity of all human beings, no matter what their race or creed.

Even though my family and I are not physically able to go to other countries and help, we can still contribute financially and be a part of the Mercy Corps team. It is so rewarding to be able to make a difference to others around the world. We plan on continuing our partnership with Mercy Corps for many, many more years to come!

Sincerely,
Mary Beth and Gary Lacy



**The Laceys (from left to right):
Jeremy, Mary Beth, Rachel, and Gary**

We are pleased to announce John Michael Talbot's Spring 2003 "Signatures" concert tour. Since 1982, John Michael has been helping Mercy Corps provide lifesaving assistance to families in need around the world.

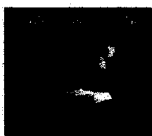
Ceili Rain, a musical ensemble with a traditional Celtic sound, is one of Mercy Corps' newest partners. Their 2003 "No You—No Me" concert tour is underway now.

For more information about John Michael Talbot and Ceili Rain, and links to their concert schedules, please visit the "Partners" page of Mercy Corps' website: www.mercycorps.org.



OUR GIFT FOR YOU

When you **donate \$100** or more to Mercy Corps **OR** join our **Partners In Mercy** monthly giving program, we will send you a free gift. **Act today and we'll send you your choice of:**



John Michael Talbot's Wisdom CD.
Enjoy these prayerful, contemplative songs from John Michael's "Wisdom" concert tour.

OR

Two beautiful, colorful, **miniature dolls**, handmade by the Howrah Women's Association in India.

Each doll is guaranteed to be unique. **OR**



Celebratory music with a traditional Celtic sound, from **Ceili Rain**. Enjoy songs of spirituality and social justice.



Just fill out and return the enclosed Reply Form indicating your preference, or call 1-800-292-3355, ext. 250, for more information.

mercy report

Mercy Report is published five times per year by Mercy Corps. Copyright 2003. All rights reserved.

Executive Editor: Dan O'Neill
Editor: Lisa Kenn
Production Specialist: Alissa Zwanger
Design: Mazana Bruggeman

Mercy Corps is a tax exempt agency, I.R.S. Code 501(c)3. Donations are tax-deductible to the full extent allowed by law. Mercy Corps is a member of InterAction, and is registered with the U.S. Agency for International Development (USAID).

International Headquarters:
3015 S.W. First Avenue, Portland, Oregon 97201
Phone: (503) 796-6800
Toll-free: 1-800-292-3355, ext. 250
Email: info@mercycorps.org
Web site: www.mercycorps.org

Mercy Corps is a non-profit agency which exists to alleviate suffering, poverty and oppression by helping people build secure, productive and just communities.

For questions or concerns, or if you wish to become an automatic donor by direct deposit from your bank account or credit card and save the cost of mailings, call toll-free to Donor Relations at 1-800-292-3355, ext. 250.



the
hunger site

Visit thehungersite.com to fight hunger around the world.



GLOBAL ENVISION

globalevision.org

Promoting Responsible Free Markets
to Alleviate Poverty

PAX
WORLD SERVICE



Working for Peace and
Justice Worldwide

BBB
MEMBER

BETTER BUSINESS BUREAU
NORTH OREGON & WESTERN WASHINGTON

InterAction
American Council for Voluntary International Action



PLEASE RECYCLE