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PRESIDENT'S ADVISORY  
PANEL  
ON FEDERAL TAX REFORM

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As I am a member of the lawman group of Las Vegas NV. I am sending to you pages 13,14, &15 of our 21-page report.

Continued from page 12 of the Lawman's 21 page report

"It is obvious that these decisions in principle rule the case at bar if the word 'income' has the same meaning in the Income Tax Act of 1913 that it had in the Corporation Excise Tax Act of 1909, and that it has the same scope of meaning was in effect decided in Southern Pacific v Lowe..., where it was assumed for the purpose of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When we add to this, Eisner v Macomber...the definition of 'income' which was applied was adopted from Stratton's Independence v Howbert, supra, arising under the Corporation Excise Tax Act of 1909... there would seem to be no room to doubt that the word must be given the same meaning in all the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act, and that what that meaning is has now become definitely settled by decisions of this Court."

*Comment: So the word "income" has the same meaning after the 16<sup>th</sup> Amendment was passed as it did prior to passage in 1913. Since that time, has there ever been an overturning of this decision which was definitely*

**settled by that Supreme Court decision in 1921? If the IRS cannot show that the decision of the Court was overturned, then its claim falls.**

**All these rulings were made to establish to the meaning of the word 'income' in the 16<sup>th</sup> Amendment. We're not yet done. We have to look to Stratton's. We have, however, learned that it has the same meaning as applied to an EXCISE tax and it somehow has to do with corporations.**

**STRATTON'S INDEPENDENCE, LTD. v HOWBERT, 231 US 399 (1913):**

**Stratton's is very important in that it puts a firmer definition on the word income.**

**"As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law. 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, with certain qualifications prescribed by the act itself."**

**"Moreover, the section imposes ' a special excise tax with respect to the carrying on or doing business by such corporation,' etc..."**

**"Corporations engaged in such business share in the benefits of the federal government, and ought as reasonably to contribute to the support of that government as corporations that conduct other kinds of profitable business."**

**"... the annual gains of such corporations are certainly to be taken as income for the purpose of measuring the amount of the tax."**

**Comment: So you see, the word 'income' only applied to corporations, acting in a corporate capacity, which freely entered into a contract with the federal government to incorporate and were free to not incorporate or to rescind their incorporation. It was an excise tax and was indirect and was imposed on a privilege or luxury.**

***Does the government claim that the 16<sup>th</sup> Amendment with its word 'income' imposes the same conditions on your wages and salaries? Yes and no. It has never claimed to be imposing an excise tax on your earnings, measured by the size of your wages. Excise taxes cannot be imposed on an individual or his property. They do claim, however that they are imposing a voluntary tax on your earnings. That voluntary tax cannot fall under indirect or excise tax definitions. It, therefore, must be imposed as a direct tax, without the apportionment provision, which would make it unconstitutional or outside of the limitations provided, except in the case of an American citizen working overseas or a foreigner working in the US ...OR... a US citizen who voluntarily pays the tax. Your withholding does not fall under either class of federal taxation under the constitution but is legal only if you volunteer.***

***The Apportionment provision of the Constitution has never been repealed and still stands in the main body of the Constitution. When Prohibition was repealed, the Congress actually passed a measure repealing it, and they did not do anything similar to repeal in regard to Apportionment.***

***Understanding that the income tax is voluntary, is crucial to the understanding as to why it is constitutional, that is, not authorized by the constitution but simply permitted if it is voluntarily undertaken between government and citizen.***

#### **Fourth Consideration – SUPREME COURT CASES**

***Previously, we focused on 3 court rulings; Pollock, Stratton's Independence, and Smietanka. Those 3 rulings, alone, destroy the federal government's claim that the 16<sup>th</sup> Amendment authorized an income tax on individuals and unincorporated businesses. Now, some of you may object***

***on the grounds that perhaps we're not telling the whole story or perhaps we have been reading these cases wrongly. Now it is time to lock that argument up. Let's look at numerous other US Supreme Court cases.***

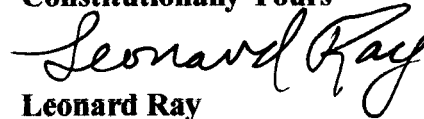
***EVANS v GORE, 253 US 245 (1920):***

***"If the tax in respect of his compensation be prohibited, it can find no justification in the taxation of other income as to which there is no prohibition; for, of course, doing what the Constitution permits gives no license to do what it prohibits."***

***"Does the Sixteenth Amendment authorize and support this tax and the attendant diminution; that is to say, does it bring within the taxing powers subjects theretofore excepted? The court below answered in the negative; and counsel for the government say: 'It is not, in view of recent decisions, contended that this amendment rendered anything taxable as income that was not so taxable before'."***

***Comment: Even the government is not claiming, in view of those recent decisions, that it can levy a direct tax without apportionment. Remember that this was 7 years after the 16<sup>th</sup> Amendment was passed.***

**Constitutionally Yours**



**Leonard Ray**