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2005 MAR 28 P 4: 00

The President's Advisory Panel on Federal Tax Reform

1440 New York Avenue NW

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Washington, D.C. 20220

February 7, 2005

To the Honorable Panel:

I am very pleased that there is an on-going effort to investigate and reform federal taxes and the collection thereof, and I appreciate the opportunity to participate in this discussion in some small way.

I, and many other so-called patriots, have for many years researched the law regarding income taxes, among other things, and have realized that something is radically amiss. Certainly the laws are complicated; one has only to read Larken Rose's 861 information or the articles at <http://www.originalintent.org> to realize just how complex it all is. Indeed, complexity is a major problem. The simple fact of the matter is that, considering that patriots and the IRS have been arguing for quite a while about what the law actually says, it can't be very clear. It took patriots years to reach some consensus about what it really says, and there are still areas of disagreement. In part, the law's incredible complexity is probably purposeful. For if it were straightforward and clear, it would not be so easy to pull the wool over everyone's eyes, and there wouldn't be much to argue about.

Paul Andrew Mitchell wrote a ground-breaking book called "The Federal Zone" showing that the majority of US government's power is in the so-called federal zone, i.e., the District of Columbia as the seat of government, the territories and the enclaves, that the IRC doesn't apply to most of us who live in the states of the Union, and that, indeed, the Code itself shows this, assuming of course that one can read and comprehend it. Unfortunately, most of us lack the requisite knowledge of legal terms, various legal rules of grammar, legislative history and the time and tenacity to read the Code. In fact most accountants and lawyers don't understand it, and most of them probably haven't read it. Surely this is purposeful, for nothing could be that arcane and complex by accident. Was it intended to deceive? Was it intended to put people off?

It might seem on the surface that many of us believe that the tax laws are unconstitutional, but that would be a misimpression on your part. Based on my years of reading law and conversing with other like-minded people, it is apparent that the law regarding taxes is constitutional, but clearly the mode of collection (IRS tactics) is not. The IRS has become a law unto itself. Virtually everyone who has gone to the time and trouble to obtain and decode their IMFs (Individual Master Files) have found that the IRS listed them as businesses instead of people. How in the world does that happen? Could it possibly be a purposeful thing? Apparently,

those who have gotten their IMFs rectified have ceased having problems with the IRS. Why do you suppose that is?

For the last 50+ years the IRS has been telling us that Congress's authority to enact, and the IRS's authority to collect, the income tax came as a result of the 16th Amendment to the US Constitution. A while back Red Beckman and Bill Benson researched the 16th Amendment, found that it had not been properly ratified and subsequently wrote a book entitled "The Law That Never Was". When their research was utilized in the case of US v. Stahl, the Supreme Court had the audacity to declare the alleged non-ratification of the 16th Amendment a "political question". The obvious effect of that decision was to leave the appellant (and the people generally) with no remedy. I, and other like-minded people, simply do not understand a non-decision such as that. However, it turns out, after further research, that the 16th Amendment is in reality a non-issue because, as shown at the Original Intent website (listed above), the 16th Amendment, even if it had been properly ratified, only applies to corporations. Income, it seems, must be construed to be the same thing as in the 1909 Tax Act: profit and gain, which inheres the corporate process. Perhaps that is why everyone's IMF lists them as businesses, instead of people, so that the IRS software will construe them to be taxable entities and set up the collection apparatus to go after them in the event of nonpayment or non-filing.

This view of the 16th Amendment has been born out, as a number of Supreme Court cases have stated: the 16th Amendment created no new taxing power. This means that the taxing power of Congress is limited to Art 1, § 8, Cl. 1 (imposts, duties and excises that follow the rule of uniformity) and Art. 1, § 9, Cl. 4. (direct taxes that follow the rule of apportionment). Unless one is engaged in a statutorily privileged (and thus regulated) activity (the sale of arms, alcohol or tobacco, for example), one does not incur indirect, excise taxes. And since Congress has not laid a direct tax (following the rule of apportionment), no American owes a legitimate direct tax.

Another issue is that so-called employers (in the private sector) refuse to hire people who won't submit Forms W-4 and I-9, even though these forms don't apply to most of us and, when filed, send an errant message to government about hirees' statuses. The end result is that these so-called employers have insinuated themselves between their hirees and the IRS, all the while claiming to be following the law. When it is pointed out to them that they aren't employers, that we aren't employees, and that they are incorrectly applying the law to us, they refuse to listen. The IRC defines employers as the United States government or some agency or instrumentality thereof, a definition for which private-sector companies and hirers don't qualify. And employees are defined by the Code to be those who work for employers (as defined). There are a plethora of laws that relate to (federal) employers and employees that simply have nothing to do with the rest of us. Can those who work for private sector companies or hirers not read? Can their lawyers not read? Why do they insist on applying laws to us that have nothing to do with them or us? It is apparent that private-sector companies and hirers are so afraid of the big bad wolf (IRS and DOJ) that they would rather sell out their

hirees than experience any conflict with the powers that be. Is this state of affairs by design?

All of this is quite bad enough. But when the IRS turns loose the legal machinery against us, it becomes intolerable. It is claimed that we are free, but yet when we don't do what the IRS (and consequently the private-sector companies and hirers) says, all hell breaks loose. For instance, when the IRS releases a Notice of Levy or a Garnishment of Wages, private-sector companies and hirers tremble and bow down to the mighty IRS. Wages, of course, are defined in the Code to be received only by employees (as defined), not the mass of Americans. Those of us who have been studying law have been saying (to private-sector companies and hirers and anyone else who would listen) that a Notice is just a notification of an impending action, and that only a court can precipitate the Levy or Garnishment of Wages—via order. Unless these private-sector companies and hirers believe that the IRS has ~~power beyond the administrative, i.e., that actually they have judicial power~~, this is but common sense. But do they listen? Of course not. Once again they bow down to the powers that be and *sell out their hirees*. Interestingly, the US Appellate Court just ruled in Shultz v. US that indeed a court order is required to precipitate a Summons (or a Levy or a Garnishment). Amazingly, common sense, not to mention the law, finally prevailed. Will the IRS and private sector companies and hirers pay attention, or will it be “illegal” business as usual?

In addition, Grand juries get bullied by US attorneys to bring indictments, and it becomes apparent that the grand juries are not independent of the US Attorneys; they are just rubber stamps. And judges in tax trials throw out the rulebook and bend over backward for the prosecutors in order to bring in convictions. It is clearly a rigged game. One has but to look at the Dick Simkanin and Larken Rose prosecutions to realize that the system has been turned on its head. Surely we live in Nazi Germany. Or, at least, it is a very bad dream.

In Dick Simkanin's case, and now in Larken Rose's case, the indictments were insufficient by way of failing to cite a liability statute. The only statutes cited are penalty statutes, such as 26 USC 7203.

Any person required to file an income tax return who willfully fails to do so is guilty of a misdemeanor. [Underscoring added.]

Effectively 26 USC 7203 says that the penalty applies to one who is “required to file”. A penalty statute, or code section, assigns a penalty for failure to perform an “imposed” duty. However, any penalty statute worded this way does not itself impose a duty to perform. The “duty” to perform and the “penalty” for failure to perform are two entirely different things—and they are different statutory elements of the alleged offense. Duties to perform are alleged, but no liability statutes imposing the duties are cited as support for the allegations. The allegations of duty stand naked in the indictments. Thus the accused in each case doesn't know what tax(es) and return(s) is/are the subject(s) of the offense until the trial itself. And even then they never know because the prosecutors merely put witnesses on the stand who allege

that there is a duty but who never cite the authority thereof. And the judge will take judicial notice that there is a duty. How does one prepare a defense when one doesn't know what specific duty(ies) one is charged with failing to perform? One doesn't; it's just that simple. There is very little defense against a non-charge. Consider: if the indictments are sufficient when not citing liability statutes, why cite any statute at all? Why bother with the penalty statutes? What purpose do those penalty statutes, by themselves, serve?

This may not seem to be such an important issue until one considers that citing the liability statute allows focus. In other words, the defense would know precisely what duty the accused allegedly is required to perform and would be able to attack the applicability of that duty to the accused. In other words, the defense would be able to attack the law, something that judges loathe. Without this specificity, the defense is shooting in the dark. How does one attack a law that isn't cited in the charging document? **When the prosecutor doesn't cite the authority for the duty to perform, how does one dispute that there is a duty, and how can one show one's innocence?** Juries, swayed by the pomp and circumstance of the proceeding, and by the judge's admonition to judge only the facts (circumstances) and not the law (and its applicability to the accused), then become additional rubber stamps for the prosecutor. Justice? There is very little, and only a lucky few, like Vernice Kuglan, who find a way to attack the element of willfulness, go free. One can easily see this happening in Nazi Germany. But in America? What happened? Has Nazi Germany been imported here?

If failing to cite the liability statute seems unusual, think again. Twenty plus years ago I was charged with willful failure to file under **26 USC 7203** and, true to the pattern, only that statute was mentioned in the charging document (an Information). Having done some checking, I can say with some confidence that this is the normal pattern for charging documents, not an aberration. Every tax case that I have heard of has exhibited this anomaly. They have been getting away with it for a long time. When the system wants convictions, it appears they will stop at nothing to get them. Star Chambers are the rule in today's tax trials. And, of course, these tax trials, especially the high profile tax trials, are always initiated during tax season (the couple of months prior to April 15 every year) amidst much fanfare. And the masses, scared to death of the powers that be, subsequently are led to the slaughter for another tax year. Do you see a pattern here?

When the panel opened, it was reported that this panel's objective was to make recommendations to the President to bolster compliance with the income tax laws and possibly initiate some type of national sales tax in addition. **Studying the Constitution's tax clauses leaves one with the clear impression that a national sales tax, of any kind, is not amongst the limited powers delegated to Congress for application in the States of the Union, i.e., it isn't an excise, duty or impost.** Bolstering the income tax is fine, provided that it is constitutionally applied to the appropriate entities (not the mass of American's) and that the collection practices of the IRS are within the letter of the law. Of course, the war on terrorism and the war in Iraq seem to be mandating ever-larger outlays of funds,

which ostensibly must be born by the American people. The apparent attitude on the part of Congress and the administration is that these things will be paid for whether we like it or not—effectively, over our dead bodies. The only question seems to be “How?” And the impression lent to the American people is that the law is no obstacle to the collection of whatever funding Congress wishes to allocate. The law be damned! My concern is that, at least from this panel's initial statement of purpose, your attitude is, and will be, the same, that funding is necessary, and it will be collected no matter how much the law must be mangled to accomplish that purpose.

Pleased as I am that this panel has convened and has asked for input from the public, I am concerned already that this panel “may” be a smoke screen, and that nothing substantive will come out of this panel in the sense of tax “reform”. I am concerned that the panel's definition of “reform” and mine may not be the same.

~~The President has indicated that he advocates simplifying the tax code.~~ Bearing in mind that the Code, as written, is constitutional, I am concerned that when the tax Code is re-written, it may no longer be constitutional. Considering the two Patriot Acts and the host of other non-constitutional law enacted by Congress in the last few years, certainly that concern is justified. I am also concerned that changing the tax Code really won't make it any simpler for the average man/woman to comprehend. And further, I am concerned that the legal beagles in Congress will rewrite the tax Code with the intention of moving, and thus hiding, the constitutional/legal limitations that are currently in place. Despite these considerations, certainly rewriting and simplifying the tax Code is essential. But it must be done with constitutionality and “real” simplification in mind. The problem, of course, is that I don't trust Congress for a minute. It is becoming increasingly obvious that Congress ignores the Constitution and acts as a puppet for an administration gone amuck.

Should the Code be rewritten, in my opinion it ought to be done from the standpoint of the technical writer rather than the lawyer. A “good” technical writer would not assume that anything is understood, would not use several definitions of the same thing in a given portion of text, and would ensure that a cursory reading is sufficient for the average American to comprehend it. Lawyers got us into this mess; good “technical writers ought to be used get us out. The law never should be written by lawyers.

In writing this letter, it occurs to me that I may have become a target. It occurs to me that if this panel's purpose is that of a rubber stamp for the powers that be, that perhaps soliciting opinions from the public is a smoke screen for getting so-called patriots to come out of the woodwork to make their positions known. By doing so, and by identifying where we are, we become trackable. I hope that is not your purpose. You should be far less concerned with whether letters come from real people than with what the letters convey.

Finally, then, the question is: Is this panel part of the solution or part of the problem? “Part of the solution” means, in part, reigning in the tax collecting apparatus of the IRS and putting it firmly within existing legal and constitutional bounds. I say again that, the law itself, other than being grossly overly complicated, is

less the problem than the unbridled, brutal, unethical and illegal collection practices of the IRS.

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