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Individual submission of public comments

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

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Total of pages of submission - Five

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To: The President's Advisory Panel on Federal Tax Reform
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From: George McLendon
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Dear Tax Advisory Panel;

This letter is to be considered as public comments from an individual. There is fear on the part of many Americans that the Constitutional violations of an imposed tax on ordinary property of American Citizens who are not engaged in corporate activity or any federal privilege, is being overlooked by the committee. The Constitutional limitations on federal taxation must be adhered to – and that means that a direct tax on property without apportionment is still as unconstitutional today as it was before the 16th amendment was added to the Constitution.

Please have someone testify before the committee on all US Supreme Court cases involving income taxation. You will find that the federal income tax system in place today is probably the greatest fraud in the history of government. Sadly for politicians and others in our federal government, so many Americans are discovering the truth about this fraud that the scheme will not be able to continue much longer unless the Constitution is suspended. Please end this tax scheme now.

What follows is mainly from pages four, five and six, of a twenty one page research paper first compiled by Charles Conces and reviewed by over two thousand other tax researchers including me. Others are submitting to you other pages of the paper. It was submitted to Mr. Rossotti but no comments on the USSC cites or conclusions of law were ever returned. This is also true of the many tax officials to whom this report has been submitted. It has been met with silence.

I will gladly submit a copy in the entirety if you will accept it.

Report excerpts pages 4, 5, 6, follow:

A person's possessions include the money and assets in his possession, and thus would include his labor, as being his property and as ruled by the U.S. Supreme Court. The Court also ruled that a man's labor is inviolable and is a guaranteed right.

"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 hinderance, 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 in 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." Butcher's Union Co. v. Cresent City Co., 111 US 746 (1884).

"That the right to conduct a lawful business, and thereby acquire pecuniary profits, is property, is indisputable." TRUAX v. CORRIGAN, 257 U.S. 312, 348 (1921).

"A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution." *MURDOCK v. COMMONWEALTH OF PENNSYLVANIA, 319 US 105, at 113; 63 S Ct at 875; 87 L Ed at 1298 (1943).*

Just what is an excise tax?* "A tax laid upon the happening of an event, as distinguished from its tangible fruit, is an Indirect Tax which Congress undoubtedly may impose." *[Tyler et. al., Administrators v. United States, 281 US 497, 502 (1930)].

It must be further said at this point that if the tax were being imposed as an excise tax on a natural person, why is the tax imposed not listed in subtitle E (Alcohol, tobacco, and certain excise taxes)?

There are more statements by the rulings of the Supreme Court but before we get into those, let me state the following... Excise taxes used to be commonly referred to as luxury taxes. The basis for that was that an excise tax was levied on an item of consumption or a privilege, which could be avoided by the buyer or subscriber. Very few people refer to excise taxes as luxury taxes anymore because the establishment would not want this concept to take root in the public mind. There are an awful lot of citizens who would disagree with the notion that the telephone or gasoline are not necessities of life and can be avoided, thereby rendering them as luxuries.

We will now look into the 16th Amendment. You most likely will be surprised at what you will discover.

The Second Consideration – The 16th Amendment

The IRS claims that the 16th Amendment to the Constitution authorizes an income tax without apportionment. Well, that is only partially true. The Amendment only applies to corporate profits, not to an unincorporated individual.

After the 16th Amendment was passed in 1913, there were many cases that came before the US Supreme Court and various issues were decided concerning its legitimacy. See Note 1. The big question was whether the Amendment had overturned the limitations against a direct tax without apportionment, since the limitations on direct taxes remain in the Constitution. There was the Pollock case that had set precedent before the 16th Amendment was passed. Pollock came before the court in 1895 and argued what an indirect and direct tax were. It overturned the 1894 income tax act because of lack of apportionment. So you can see that the apportionment provision is very important.

"Nothing can be clearer than that what the constitution intended to guard against was the exercise by the general government of the power of directly taxing persons and property within any state through a majority made up from the other states." Pollock vs. Farmers' Loan and Trust Co., 157 US 429, 582 (1895).

"Thus, in the matter of taxation, the constitution recognizes the two great classes of direct and indirect taxes, and lays down two rules by which their imposition must be governed, namely, the rule of apportionment as to direct taxes, and the rule of uniformity as to duties, imposts, and excises." Pollock, 157 US 429, 556 (1895).

"From the foregoing it is apparent (1) that the distinction between direct and indirect taxation was well understood by the framers of the constitution and those who adopted it; (2) that, under the state system of taxation, all taxes on real estate or personal property or the rents or income thereof were regarded as direct taxes; (3) that the rules of apportionment and of uniformity were adopted in view of that distinction and those systems..." Pollock, 157 US 429, 573.

"The income tax law under consideration is marked by discriminating features which affect the whole law. It discriminates between those who receive an income of $4,000 and those who do not. It thus vitiates, in my judgment, by this arbitrary discrimination, the whole legislation." Pollock, 157 US 429, 595.

In 1909, a corporate excise tax was passed and was ruled as meeting the requirement of uniformity for excise taxes. The court said that the apportionment requirement was not needed because it was an excise tax on the privilege of incorporating, and the size of the excise tax was measured by the size of the corporate profit. Therefore, it was ruled that it was not a tax on the income of the corporation and was, in actuality, an indirect or excise tax. Note here that it was a privilege to incorporate and that privilege carried some advantages with it. Therefore the excise tax could be avoided by not incorporating. That allowed it to fall into the category of excise or LUXURY tax. Also note that the tax was only allowed

on corporations and not on individuals. Corporate officers were obligated to ensure that the corporation paid the tax but the tax was not imposed on the individual officers.

STRATTON'S INDEPENDENCE, LTD. v. HOWBERT, 231 U.S. 399, 417 (1913):

"Evidently Congress adopted the income as the measure of the tax to be imposed with respect to the doing of business in corporate form because it desired that the excise should be imposed, approximately at least, with regard to the amount of benefit presumably derived by such corporations from the current operations of the government. In Flint v. Stone Tracy Co. 220 U.S. 107, 165 , 55 S. L. ed. 107, 419, 31 Sup. Ct. Rep. 342, Ann. Cas. 1912 B. 1312, it was held that Congress, in exercising the right to tax a legitimate subject of taxation as a franchise or privilege, was not debarred by the Constitution from measuring the taxation by the total income, although derived in part from property which, considered by itself, was not taxable."

So now it can be seen that Property (a person's labor or wages), considered by itself, is not taxable.

* * *

Thank you for receiving this submission.

Best Regards,

George McLendon