COURT CASE CITATIONS ON THE NATURE OF "INCOME"

What is Income?

See also:

- Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "Income"
- What is Income -Attorney Larry Becraft

Various Court statements about TAXABLE INCOME:

Staples v. U.S., 21 F.Supp. 737 at 739 (1937):

The Sixteenth Amendment authorizes the taxation without apportionment of "incomes, from whatever source derived." Income has been defined as "the gain derived from capital, from labor, or from both combined," Stratton's Independence v. Howbert, 231 U.S. 399, 34 S.Ct. 136, 140, 58 L.Ed. 285, "including profit gained through sale or conversion of capital," Doyle v. Mitchell Bros. Co., 247 U.S. 179, 38 S.Ct. 467, 62 L.Ed. 1054; Eisner v. Macomber, 252 U.S. 189, 40 S.Ct. 189, 193, 64 L.Ed. 521, 9 A.L.R. 1570. The gain is, however, not taxable until it is realized. North American Oil Consol. v. Burnet, 286 U.S. 417, 52 S.Ct. 613, 76 L.Ed. 1197. Furthermore, a gain from capital must be derived from it, not merely accruing to it. Eisner v. Macomber, supra. In the case just cited Mr. Justice Pitney, after quoting the foregoing definition, said, 252 U. S. 189, at page 207, 40 S.Ct. 189, 193, 64 L. Ed. 521, 9 A.L.R. 1570:

"Brief as it is, it indicates the characteristic and distinguishing attribute of income essential for a correct solution of the present controversy. The government, although basing its argument upon the definition as quoted, placed chief emphasis upon the word `gain,' which was extended to include a variety of meanings; while the significance of the next three words was either overlooked or misconceived. `Derived — from — capital'; `the gain — derived — from — capital,' etc. Here we have the essential matter: not a gain accruing to capital; not a growth or increment of value in the investment; but a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital, however invested or employed, and coming in, being `derived' — that is, received or drawn by the recipient (the taxpayer) for his separate use, benefit and disposal — that is income derived from property. Nothing else answers the description.

"The same fundamental conception is clearly set forth in the Sixteenth Amendment 740*740 — `incomes, from whatever source derived' — the essential thought being expressed with a conciseness and lucidity entirely in harmony with the form and style of the Constitution."

[SOURCE: https://scholar.google.com/scholar_case?case=6472922329517103644]

Oliver v. Halstead, 196 Va. 922, 86 S.E.2d. 858 (1955):

"There is a clear distinction between `profit' and `wages', or a compensation for labor. Compensation for labor (wages) cannot be regarded as profit within the meaning of the law. The word `profit', as ordinarily used, means the gain made upon any business or investment -- a different thing altogether from the mere compensation for labor."

[SOURCE: https://scholar.google.com/scholar_case?case=2408159815955863618]

Helvering v. Edison Bros. Stores, 133 F.2d. 575 (1943):

The argument on behalf of the taxpayer runs as follows: The treasury regulations interpreting revenue acts prior to the Act of 1934, under which a corporation was held not to realize taxable income from the purchase and sale of its own stock, have acquired the force of law by repeated reenactments of the income tax laws by Congress without

change in the definition of gross income. The regulation in question thus having acquired the force of law, the taxpayer contends, the Treasury Department is without power to change it in the absence of a change in the definition of gross income by Congress itself. In the view of the taxpayer it follows that Articles 22(a)-6 and 22(a)-16 of Treasury Regulations 86 and 94 are void. The argument is pressed further by the contention that the interpretation of § 22(a) of the Revenue Acts of 1934 and 1936, now advanced by the Treasury Department, is beyond the power of either the Department or Congress as conflicting with the meaning of the word "income" as used in the Sixteenth Amendment to the Constitution; and finally, the taxpayer contends that if valid the treasury regulations in question here are not applicable to the taxpayer's purchase and sale of its own stock in the circumstances of this case. The Commissioner contends for the reverse of these propositions. Accordingly, the taxpayer seeks reversal of the decision of the Board of Tax Appeals affirming the determination of a deficiency in its income tax for 1937, and the Commissioner, a reversal of the Board's decision reversing the determination of a deficiency against the taxpayer for the year 1935.

[. . .]

The principles controlling in the decision of the questions stated are established. **The Treasury Department cannot, by interpretative regulations, make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress, without apportionment, tax as income that which is not income within the meaning of the Sixteenth Amendment. Eisner v. Macomber, 252 U.S. 189, 40 S.Ct. 189, 64 L.Ed. 521, 9 A.L.R. 1570; M. E. Blatt Co. v. United States, 305 U.S. 267, 59 S.Ct. 186, 83 L. Ed. 167. But Congress, in defining gross income in the various revenue acts, manifested its intention to use to its fullest extent the power granted it by the Sixteenth Amendment. Douglas v. Willcuts, 296 U.S. 1, 9, 56 S.Ct. 59, 80 L.Ed. 3, 101 A.L.R. 391; Helvering v. Clifford, 309 U.S. 331, 341, 60 S.Ct. 554, 84 L.Ed. 788. What is or is not income within the meaning of the Sixteenth Amendment must be determined in each case "according to truth and substance, without regard to form." Eisner v. Macomber, supra [252 U.S. 189, 40 S.Ct. 193, 64 L.Ed. 521, 9 A.L.R. 1570]. The meaning of the word "income" in the Sixteenth Amendment and in the acts of Congress pursuant to the Amendment is that given it in common speech and every day usage. Old Colony R. Co. v. Commissioner, 284 U.S. 552, 52 S.Ct. 211, 76 L.Ed. 484; United States v. American Trucking Ass'ns, 310 U.S. 534, 60 S.Ct. 1059, 84 L.Ed. 1345.** In the construction of the revenue acts in question here, and of the administrative regulations interpreting them, we may put aside as not controlling the meaning of income in the language of accountancy and economics. Nor can the ruling of one administrative department of the government concerning income accounting control that of another department made for an entirely different purpose under another act of Congress. Old Colony R. Co. v. Commissioner, supra.

[SOURCE: https://scholar.google.com/scholar_case?case=10667411908906006440]

Flora v. U.S., 362 U.S. 145, (1959) never overruled:

"Of course, the Government can collect the tax from a District Court suitor by exercising its power of distraint—if he does not split his cause of action—but we cannot believe that compelling resort to this extraordinary procedure is either wise or in accord with congressional intent. Our system of taxation is based upon voluntary assessment and payment, not upon distraint.[42]"

[. . .]

"[Footnote 43] If the government is forced to use these remedies(distraint) on a large scale, it will affect adversely the taxpayers willingness to perform under our VOLUNTARY assessment system."

[SOURCE: https://scholar.google.com/scholar_case?case=13305625317215905]

Evans v. Gore, 253 U.S. 245 (1920): US Supreme court, never overruled

"After further consideration, we adhere to that view and accordingly hold that the Sixteenth Amendment does not authorize or support the tax in question. " (A tax on salary)

[SOURCE: https://scholar.google.com/scholar_case?case=5009531389693487180]

Edwards v. Keith, 231 F. 110, 113 (1916):

"The phraseology of form 1040 is somewhat obscure; perhaps it means that there shall be included actual receipts (a) for services rendered in the year for which return is made and (b) for unpaid accounts, or charges for services rendered in former years, and paid in the year for which return is made. But it matters little what it does mean; the statute and the statute alone determines what is income to be taxed. It taxes only income "derived" from many different specified sources; one does not "derive income" by rendering services and charging for them.."

McCutchin v. Commissioner of IRS, 159 F.2d. 472:

"The 16th Amendment does not authorize laying of an income tax upon one person for the income derived solely from another."[wages]

[SOURCE: https://scholar.google.com/scholar_case?case=14832216208055238603]

Blatt Co. v. U.S., 305 U.S. 267, 59 S.Ct. 186 (1938):

"Treasury regulations can add nothing to income as defined by Congress[9]."

Footnotes:

[9] *Koshland* v. *Helvering,* 298 U.S. 441, 447.

[SOURCE: https://scholar.google.com/scholar_case?case=8974594538226603892]

***Commissioner of IRS v. Duberstein*, 363 U.S. 278, 80 S.Ct. 1190 (1960):**

"*The exclusion of property acquired by gift from gross income under the federal income tax laws was made in the first income tax statute 4 passed under the authority of the Sixteenth Amendment, and has been a feature of the income tax statutes ever since*. The meaning of the term "gift" as applied to particular transfers has always been a matter of contention. 5 Specific and illuminating legislative history on the point does not appear to exist. Analogies and inferences drawn from other revenue provisions, such as the estate and gift taxes, are dubious. See Lockard v. Commissioner, 166 F.2d 409. The meaning of the statutory term has been shaped largely by the decisional law."

[SOURCE: https://scholar.google.com/scholar_case?case=13651737858641373965]

***Central Illinois Publishing Service v. U.S.*, 435 U.S. 21 (1978)**:

"Decided cases have made the distinction between wages and income and have refused to equate the two."

[SOURCE: https://scholar.google.com/scholar_case?case=14509910460633806612]

Anderson Oldsmobile, Inc. vs Hofferbert, 102 F.Supp. 902:

"Constitutionally the only thing that can be taxed by Congress is "income." And the tax actually imposed by Congress has been on net income as distinct from gross income. The tax is not, never has been and could not constitutionally be upon "gross receipts".[3] "

Footnotes:

[3] See Southern Pacific Co. v. Lowe, 247 U. S. 330, 38 S.Ct. 540, 62 L.Ed. 1142; Doyle v. Mitchell Bros. Co., 247 U.S. 179, 38 S.Ct. 467, 62 L.Ed. 1054.

[SOURCE: https://scholar.google.com/scholar_case?case=5147423276685227595]

Conner v. US, 303 F.Supp. 1187 Federal District Court, Houston, never overruled.

"Whatever may constitute income, therefore, must have the essential feature of gain to the recipient. This was true when the sixteenth amendment became effective, it was true at the time of the decision in Eisner v. McComber, *supra*, it was true under section 22(a) of the Internal Revenue Code of 1939, and it is likewise true under section 61 (a) of the Internal Revenue Code of 1954. If there is no gain, there is no income."

[SOURCE: https://scholar.google.com/scholar_case?case=11945345764657501477]

Bowers v. Kerbaugh-Empire Co., 271 U.S. 170 (1926):

" "Income" has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the Sixteenth Amendment and in the various revenue acts subsequently passed. *Southern Pacific Co.* v. *Lowe*,247 U.S. 330, 335; *Merchants L. & T. Co.* v. *Smietanka*, 255 U.S. 509, 519. After full consideration, this Court declared that income may be defined as gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. *Stratton's Independence* v. *Howbert*, 231 U.S. 399, 415; *Doyle* v. *Mitchell Brothers Co.*, 247 U.S. 179, 185; *Eisner* v. *Macomber*, 252 U.S. 189, 207. And that definition has been adhered to and applied repeatedly. See e.g. *Merchants L. & T. Co.* v. *Smietanka*, *supra*, 518; *Goodrich* v. *Edwards*,255 U.S. 527, 535; *United States* v. *Phellis*, 257 U.S. 156, 169; *Miles* v. *Safe Deposit Co.*, 259 U.S. 247, 252-253; *United States* v. *Supplee-Biddle Co.*, 265 U.S. 189, 194; *Irwin* v. *Gavit*, 268 U.S. 161, 167; *Edwards* v. *Cuba Railroad*, 268 U.S. 628, 633. In determining what constitutes income substance rather than form is to be given controlling weight. *Eisner* v. *Macomber*, *supra*, 206."

[SOURCE: https://scholar.google.com/scholar_case?case=9246029933485828434]

Brushaber v. Union Pacific R.R. Co., 240 U.S. 1 (1916)

"The conclusion reached in the Pollock Case did not in any degree involve holding that income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such..."

[SOURCE: https://scholar.google.com/scholar_case?case=5893140094506516673]

Simms v. Ahrens, 271 S.W. 720 (1925)

"An income tax is neither a property tax nor a tax on occupations of common right, but is an EXCISE tax...The legislature may declare as 'privileged' and tax as such for state revenue, those pursuits not matters of common right, but it has no power to declare as a 'privilege' and tax for revenue purposes, occupations that are of common right."

Eisner v. Macomber, 252 U.S. 189 (1920), US Supreme court, never overruled:

"After examining dictionaries in common use (Bouv. L.D.; Standard Dict.; Webster's Internat. Dict.; Century Dict.), we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909 (*Stratton's Independence* v. *Howbert*, 231 U.S. 399, 415; *Doyle* v. *Mitchell Bros. Co.*, 247 U.S. 179, 185) — ""Income may be defined as the gain derived from capital, from labor, or from both combined," provided it be understood to include profit gained through a sale or conversion of capital assets, to which it was applied in the *Doyle Case*(pp. 183, 185)."

[SOURCE; https://scholar.google.com/scholar_case?case=6666969430777270424]

Laureldale Cemetery Assoc. v. Matthews, 345 Pa. 239, 47 A.2d. 277 (1946):

"Reasonable compensation for labor or services rendered is not profit"

[SOURCE: https://scholar.google.com/scholar_case?case=2408159815955863618]

Schuster v. Helvering, 121 F.2d. 643 (1941)

"To argue that all these are income as soon as the obligor becomes bound, especially when the taxpayer, as here, keeps his books on a cash basis, is so fantastic as to deserve no discussion; it contradicts the fundamental notion that income is "realized" gain, and would incidentally be unworkable in practice, for substantially all such payments are conditional in obligation, as were the quarterly payments in the agreement of June 11, 1928."

[SOURCE: https://scholar.google.com/scholar_case?case=12910921470317884 32]

Butchers' Union Co. v. Crescent City Co., 111 U.S. 746 (1883). One of the most eloquent opinions ever delivered by the Court..

"We hold these truths to be self-evident" — that is so plain that their truth is recognized upon their mere statement — "that all men are 757*757endowed" — not by edicts of Emperors, or decrees of Parliament, or acts of Congress, but "by their Creator with certain inalienable rights" — that is, rights which cannot be bartered away, or given away, or taken away except in punishment of crime — "and that among these are life, liberty, and the pursuit of happiness, and to secure these" — not grant them but secure them — "governments are instituted among men, deriving their just powers from the consent of the governed."

"Among these inalienable rights, as proclaimed in that great document, is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give to them their highest enjoyment.

"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 hindrance, 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. As it hinders the one from working at what he thinks proper, so it hinders the others from employing whom they think proper." Adam Smith's Wealth of Nations, Bk. I. Chap. 10."

[SOURCE: https://scholar.google.com/scholar_case?case=2843870813948488667]

Pollock v. Farmers Loan, 157 U.S. 601, 15 S.Ct. 912, 39 L.Ed. 1108 (1895)

"The tax imposed by sections twenty-seven to thirty-seven, inclusive, of the act of 1894, so far as it falls on the income of real estate and of personal property, being a direct tax within the meaning of the Constitution, and, therefore, unconstitutional and void because not apportioned according to representation, all those sections, constituting one entire scheme of taxation, are necessarily invalid."

[EDITORIAL: The Supreme Court had, in POLLOCK v. FARMERS LOAN , in 1894, ruled as UNCONSTITUTIONAL the EXACT SAME KIND OF TAX MOST AMERICANS ARE NOW PAYING! [A direct tax without apportionment.] This decision has NEVER been overturned! Both BEFORE and AFTER the sixteenth amendment passed (?), THE COURTS SAID INCOME WAS CORPORATE PROFIT! The Separation of powers doctrine says only CONGRESS can collect a tax!]

[SOURCE: https://scholar.google.com/scholar_case?case=7292056596996651119]

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