

1 **IRS Violates Citizen's Due Process Rights**

2 **MR. SCHULZ:** Well, thank you very much. Panel, thank you very much. I would like to
3 call MR. CHAPPELL and MR. Turner; remind you you're still under oath, and would Ms. Spaid
4 raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth so
5 help you God?

6 **MS. SPAID:** I do.

7 **MR. SCHULZ:** Thank you. Would you, for the record, give us you name and where you
8 live and what your professional background has been and what you're doing now?

9 **MS. SPAID:** Yes. My name is Noel Spaid. I am from San Diego, California. I am an
10 attorney since 1980. I work in tax law. I prosecute or I protect tax litigants. I do mostly theoretical
11 tax law and prosecute a lot of the theories that you have heard today, presenting them for different
12 tax litigants. I also do tax criminal law, defending different people charged with different tax
13 criminalities and defend the good faith defense with different criminal defendants.

14 **MR. HANSEN:** We are going to continue with addressing the due process violations. We
15 have the same objectives as the previous area to demonstrate violations of administrative
16 procedures and due process rights of American citizens by the Internal Revenue Service. So we
17 will begin our questioning with question number 256a. Is it true that after IRS has audited a
18 taxpayer and there is a disagreement with the Code of Federal Regulations requiring IRS to take
19 certain procedural steps to ensure the taxpayer administrative level action for hearings on those
20 disagreements, including an examination of the audit with the agent, followed by a meeting with
21 the IRS's agent's supervisor, followed by a 30-day letter which sets out the IRS's disputed items
22 with the taxpayer, and the administrative appeal of the IRS's decision on the audit.

1 **MS. SPAID:** Yes, that's correct.

2 **MR. CHAPPELL:** That's correct.

3 **MS. SPAID:** These CFRs are 601.105 and 106 case laws determined that they are
4 directory, not mandatory, even though other statutory laws indicate that they are mandatory in
5 terms of collecting attorneys' fees and shifting the burden of proof at trial. We have a case before
6 the Appellate Division of the Ninth District Court of California which we hope will make them
7 mandatory.

8 **MR. HANSEN:** Is that the because the 601 series of regulations are procedural rather than
9 legislative?

10 **MS. SPAID:** Procedural rather than implementing; yes, that is correct.

11 **MR. HANSEN:** Question 256b. Is it true that the purpose of these administrative steps is to
12 afford the taxpayer an opportunity to have his disputed audit resolved at the administrative level?
13 In other words, that these are pre-court or pre-litigation steps which are designed to help the people
14 avoid the expense of a procedure known as tax court?

15 **MS. SPAID:** Yes.

16 **MR. HANSEN:** Question 256c. Is it true that if a dispute is not resolved at the
17 administrative level, the taxpayer's only remedy is to petition tax court?

18 **MS. SPAID:** Yes. The very expensive remedy of tax court.

19 **MR. HANSEN:** And question 256d. Is it true that IRS Publication 1, IRS Publication 5,
20 and IRS Publication 556 are all given to the taxpayer during the audit through appeals procedure,
21 and these publications state that these administrative procedural, that is due process steps, are
22 available to the taxpayer?

23 **MS. SPAID:** Yes. They are advertised as remedies available to the taxpayer prior to going

1 into the very expensive remedy called tax court.

2 **MR. HANSEN:** Question 256f. We are going to skip 256e. Is it true that tax court is an
3 extremely expensive remedy for the individual taxpayer?

4 **MS. SPAID:** Terribly.

5 **MR. HANSEN:** How expensive is it?

6 **MS. SPAID:** Oh, the administrative remedies are -- they don't take much paperwork; they
7 are one-on-one; they are not formal. Tax court requires, it's just hard to explain the difference
8 because it's so vast. It is all very formal; there is nothing informally done between the attorneys.
9 You don't have to have an attorney in tax court, but be aware if you don't. The multiplicity of paper
10 work is so tremendous. It's thousands and thousands and thousands of dollars whereas the
11 administrative remedies can be done for hundreds of dollars. It's just vastly expensive.

12 **MR. HANSEN:** Could it be that this situation is an attempt on the part of the government
13 to harass, intimidate either legally or administratively or financially, those persons who want their
14 rights respected?

15 **MS. SPAID:** I think it is in great deal, in great part.

16 **MR. HANSEN:** And is it true that in the case of rights, that it's not a right if the
17 government can use the force of law to interfere with or penalize or harass or financially sanction
18 people who exercise that right?

19 **MS. SPAID:** Yes. It's also used with the recalcitrant taxpayer, the taxpayer who doesn't opt
20 up and immediately work with the auditor and who asks any of the questions of the auditor such as
21 ask the auditor to answer his questions what makes me subject to or liable for a tax, a question that
22 the auditor considers a facetious or nonmeritorious questions. If they ask the auditor to prove what
23 makes them subject to or liable for a tax; asks any of the questions that they can consider quote,

1 frivolous, unquote even though they won't or can't answer them.

2 **MR. HANSEN:** Are you implying that in this case that the Administrative Procedures Act
3 and Title 5, Section 556d is being ignored?

4 **MS. SPAID:** Absolutely ignored.

5 **MR. HANSEN:** Question 256g. Is it true that the IRS is the only party that benefits as
6 taxpayers are forced into tax court?

7 **MS. SPAID:** Well, it's clearly the party that benefits the most. It has the big guns, it has a
8 multitude of assistants, helpers, secretary and staff that can run paper work, massive amounts of
9 paper work that are required in tax court as benefits the best and I would say that the judges in the
10 tax court tend to be IRS prone.

11 **MR. HANSEN:** It almost sounds like the government is saying well, we know you don't
12 owe any income tax but we are going to make it so difficult, so complex, so bothersome that you're
13 just going to throw up your hands and say well, I'll just pay it anyway.

14 **MS. SPAID:** The other side of it is, in order to get into tax court, you have to go through
15 the, quote, notice of deficiency; that's the triggering act. And when they issue the notice of
16 deficiency, a percentage of people will not respond to that notice of deficiency. And we will be
17 talking about the notice of deficiency in a few minutes. And it's very often a falsely high notice of
18 deficiency. When people default on the notice of deficiency by not petitioning tax court, they are
19 the stuckee. They are stuck with that notice of deficiency and the liability thereon and they have to
20 pay that notice of deficiency, which I said is very often artificially, terribly high.

21 **MR. HANSEN:** Is it true that in the case of: Minahan versus Commissioner" that the tax
22 court found that the taxpayer's right to attorneys' fees on favorable outcome is jeopardized if the
23 administrative procedures are not exhausted?

1 **MS. SPAID:** Yes, and that happens to be the law. There is a tax code, an IRS code which
2 states that you have to exhaust your administrative remedies in order to collect attorneys' fees on a
3 favorable outcome. And in Minahan the tax court was wise enough to see that the IRS often
4 deprives the taxpayer of these administrative codes and allowed the taxpayer to collect attorneys'
5 fees anyway, but noted the attorney's fees are jeopardize if you don't go through the administrative
6 codes that you are deprived of by IRS.**THE WITNESS:** What does it mean to exhaust your
7 administrative remedies?

8 **MS. SPAID:** To go through the audit, which you are not deprived of an audit. They will
9 give you an audit given certain exceptions, to ask for a meeting of the supervisors, to get a 30-day
10 letter and to go through the appeals; those are your four administrative procedures.

11 **MR. HANSEN:** So, if you don't go through the appeals, then you forfeit your right to not
12 pay the tax?

13 **MS. SPAID:** No. You forfeit your right to the administrative remedies and you forfeit
14 under the code and under IRC codes, you forfeit your right to attorney's fees, except Minahan
15 found otherwise, noting that the IRS often does not give you your administrative remedies, and you
16 also can forfeit your right to shift the burden of proof at tax court such that the taxpayer usually has
17 a burden of proving all the issues at tax court, but you can shift your burden of proof to the IRS
18 having to prove everything in tax court, if you have gone through those administrative remedies.

19 **MR. HANSEN:** I see.

20 **MS. SPAID:** It's a very important point if you go through tax court.

21 **MR. HANSEN:** Question 265i. Is it true that the Reform and Restructuring Act of 1998
22 requires the taxpayer to go through these administrative procedural or due process steps in order to
23 prove his cooperativeness with IRS and to shift the burden of proof to the IRS during

1 administrative hearing and at trial?

2 **MS. SPAID:** Absolutely. The only other thing you can do after you have made demand
3 upon the IRS for these administrative procedures and they have denied them, you do it in writing
4 and you do it several times because they will accept letters and so forth to the IRS demanding these
5 procedural steps as proof of cooperativeness. They have to because they can't go back and force the
6 IRS to give you them.

7 **MR. HANSEN:** And 266j. Is it true that the IRS routinely ignores people's demands for
8 their procedural, due process, statutory rights, ignoring IRS publications 1, 5 and 556, the
9 regulations they are supposed to use in making their determination in the underlying statutes?

10 **MS. SPAID:** Yes. After giving you these publications and telling you these are your rights
11 and advertising them, they will deny giving you them outright.

12 **MR. TURNER:** Can we have some examples possibly of typically what you've seen in that
13 area of specific rights that were not --

14 **MS. SPAID:** Yes. The fact of an audit where a person goes in for an audit and especially
15 talking about sort of the recalcitrant taxpayer who has been called in for an audit and asks the IRS
16 to prove up that he owes the IRS or has a tax liability, such as asking the IRS to show him where's
17 he's subject to or liable for a tax and the IRS agent gets agitated and can't do that, won't give him an
18 audit; he demands an audit, he refuses to give him an audit. He demands a meeting of the
19 supervisor, with the supervisor, which is one of those administrative steps. She refuses to give him
20 a meeting with the supervisor. He demands a 90-day letter showing him where he is, what kind of
21 tax liability he's supposed to have; that's what the 90-day letter is about; showing the differences
22 that the IRS has with him financially; they refuse to give him a 90-day letter. He demands an
23 appeal, they refuse to give him an appeal. He's gone through all four administrative steps,

1 demanded all four administrative steps and been denied all four of them. At this point, according to
2 the law, even if he has a favorable outcome at tax court, they will send him a notice of deficiency,
3 they will create one out of the air essentially, send him a notice of deficiency. If he wins in tax
4 court, he should be denied attorney's fees and he should be stuck with the burden of proof or shifted
5 by virtue of having demanded all these administrative steps. That's where he is.

6 **MR. HANSEN:** As far as your correspondence, does stating a fact under affidavit of a
7 certain, related to your particular case, and calling for a denial or a correction of that fact help shift
8 the burden of proof on the IRS?

9 **MS. SPAID:** Yes. They will accept that. You can also put the agent on the stand and ask
10 the agent, you can put the letters that you sent to the agent in front of the agent and ask them
11 whether or not they received these letters of demand for these different steps and they will admit
12 that they got them.

13 **MR. HANSEN:** What I mean, for instance, is that, we used yesterday the word
14 nontaxpayer. We said the nontaxpayer is the person that is not the person who is liable or the
15 subject of the code and let's say, for instance, you stated in your tax return originally knowing you
16 were going to get into a big long battle, you stated in your original tax return I'm a nontaxpayer, I
17 am not liable. I can't find any code in any section of the Internal Revenue Code that makes me
18 liable, just like MR. Schiff said earlier, and here's the citation for that authority, for that
19 conclusion, and I demand that you refute that claim. I am under affidavit, and I am a person who
20 has personal firsthand knowledge of this, and I demand that you refute that, otherwise you will
21 admit by default that this fact is true; and if they do not refute that, have you not then shifted the
22 burden of proof over to the IRS?

23 **MS. SPAID:** In my opinion, no.

1 **MR. HANSEN:** Why is that?

2 **MS. SPAID:** Because you're making a demand of them. Because you've asserted something
3 does not legally shift the burden of proof.

4 **MR. HANSEN:** No. If you asserted something and that conclusion was based on the
5 rulings of the Supreme Court and in the case of "Bishop versus United State" the Supreme Court
6 said you cannot be, for instance, prosecuted for willful failure to file if you relied on the decisions
7 of the Supreme Court. Willfulness does not exist in a situation like that?

8 **MS. SPAID:** In my opinion that in itself would not shift the burden of proof on them.

9 **MR. HANSEN:** I see. The only way that you can shift it then is to follow all these
10 procedures?

11 **MS. SPAID:** That's correct.

12 **MR. HANSEN:** Is it true that there is no penalty for the IRS agents if they violate the
13 income tax statutes by denying the people their due process rights, but the statutes contain a
14 multitude of penalties for the people if they violate the income tax statutes, and those penalties are
15 almost always imposed?

16 **MS. SPAID:** The Reform and Restructuring Act of 1998 does impose a penalty on the
17 agents that deny people the administrative remedies, and the penalties include up to and including
18 termination. I have never seen any penalty imposed upon any of the agents for denying these rights.
19 The penalties that are imposed upon the people for income tax evasion, delay, denial, any of that
20 are multitudinous; just look at the index for the code. They are imposed generally, frequently, often
21 and in high numbers. Very unfair. And by the way, anyone who gets a penalty and is in a position
22 to have an agent penalized, should demand that the agent be penalized and when they are not, claim
23 unequal treatment under the law.

1 **MR. HANSEN:** I see. What do you suppose is the reason why the agents are penalized? Is
2 it because the courts, for instance, are dismissing as frivolous any suits under, for instance, 26 U.S.
3 Code Section 7214, illegal acts of revenue officers or is it because the supervisors are ignoring the
4 complaints or is it because the taxpayers do not know how to pursue a proper remedy for that?

5 **MS. SPAID:** I think it's all of that, but I also think it's because the agents are encouraged to
6 deny due process.

7 **MR. HANSEN:** But I mean, if the courts though are the enforcement arm, if they neglect
8 or they refuse to enforce those issues, then maybe that's why --

9 **MS. SPAID:** There aren't any -- one could use the statute to bring suit but these are all new
10 and I don't think anybody's brought this type of suit under the Reform and Restructuring Act, so it
11 would be breaking new ground.

12 **MR. HANSEN:** So, you never heard of a case where an agent was prosecuted under
13 Section 7214?

14 **MS. SPAID:** Never.

15 **MR. HANSEN:** Is that because -- are we speaking just about attorneys?

16 **MS. SPAID:** Right.

17 **MR. HANSEN:** So, would it be, would part of that reason be because attorneys are
18 licensed by the court that they are litigating in?

19 **MS. SPAID:** No. Attorneys are not afraid of that at all.

20 **MR. HANSEN:** So you, for instance, as an attorney would not be concerned about
21 confronting the court and, by the way, is it true that in many cases when the revenue officers are
22 pursued, the government substitutes themselves as the sovereign for the agent and then uses
23 sovereign immunity to defend the agent?

1 **MS. SPAID:** No. But I do think that the courts tend to be somewhat protective of
2 government somewhat, and a little bit more protective in the area of IRS. I think they are sensitive
3 to IRS.

4 **MR. HANSEN:** I see. Question 256-1. Is it true that the IRS will often deny a person his
5 administrative statutory due process rights because the statute of limitations, that is IRC 6501, et
6 seq, is running out for them to get the statutory notice of deficiency, that is IRC 6212, out and they
7 are in fear of losing the whole year of taxation from that person?

8 **MS. SPAID:** That's one of the main reasons they do it, that they deny the administrative
9 due processes. Also I think that that also causes fear of discipline to the agent, that they are afraid
10 of losing that year. I think the agent might get disciplined if they miss a statute of limitations.

11 **MR. HANSEN:** And how might they be disciplined?

12 **MS. SPAID:** I think they lose pay; they could lose rank, lose advancement.

13 **MR. SCHULZ:** So, this interesting. We are back to the statute of limitation problem. If the
14 Service, the Internal Revenue Service is running up against limitation, statute of limitation, we
15 have now seen on, we have now seen two options that the agents, beside just letting the taxpayer go
16 because they, the Service, took too long to do what they felt they had to do, we see they have a
17 couple of options; they can hack the computer and get in there and put in a false date, or they can
18 simply issue a notice of deficiency which throws the person into tax court?

19 **MS. SPAID:** In these cases, they can't hack the computer because, the cases that I have
20 been doing, they have an attorney on it and we are very aware of what the statute is. We're
21 watching it ourselves. And they couldn't change, they couldn't falsify it.

22 **MR. SCHULZ:** That's in the case of a taxpayer who has competent counsel?

23 **MS. SPAID:** Right. There would be no way to do it. The other thing, they do have another

1 option; they could offer to extend the statute, they don't do that as a rule. We sometimes approach
2 them and say let's extend the statute.

3 **MR. SCHULZ:** That requires a stipulation?

4 **MR. HANSEN:** Right, and that they will often do. They will do it if we raise it. They will
5 never raise it; they should. I think it should be a matter of law that they raise the issue to afford the
6 administrative processes.

7 **MR. HANSEN:** And MR. Turner, in your dealings as an IRS agent, did you ever encounter
8 a situation where you saw these kind of things going on or evidence that other people either did
9 them or were disciplined for doing them?

10 **MR. TURNER:** I am sorry, but the question is too general for me to --

11 **MR. HANSEN:** Well, you were a collection officer?

12 **MR. TURNER:** I was a collection officer.

13 **MR. HANSEN:** And Bob just described that there are two different occasions or
14 opportunities where the IRS could use to guarantee a collection, you know, either the notice of
15 deficiency or the other thing, and so the question is hacking the computer systems or whatever, like
16 we saw earlier. Did you ever see any of that going on?

17 **MR. TURNER:** No. I never saw anybody where I worked manipulate anything with the
18 computer, purposely or otherwise, to try to change a taxpayers' account.

19 **MR. SCHULZ:** How many criminals advertise what they do?

20 **MR. HANSEN:** Moving on. Question 256m. Is it true that the IRS races to issue a statutory
21 notice of deficiency, IRC 6212, rather than giving the people their due process rights to
22 administrative level resolution, that is CFR 601.605 and 606, because the IRS has greater resources
23 and power in tax court?

1 **MS. SPAID:** Yes, and I think that that's what I was referring to when I said I think it should
2 be law that they have to offer an extension of statute of limitations to the taxpayer.

3 **MR. HANSEN:** And 256n. Is it true that a notice of deficiency is in most cases completely
4 erroneous and always greatly in favor of the IRS?

5 **MR. HANSEN:** Well, it's never in favor of the taxpayer and in many cases it's completely
6 erroneous.

7 **MR. HANSEN:** Is there a way that one could detect why or how it became erroneous?

8 **MS. SPAID:** Oh, very definitely.

9 **MR. HANSEN:** How is that?

10 **MR. HANSEN:** One of the ways is that you look at two basic figures without looking at
11 penalties and all that other stuff and the interest that they add on. You look at the income figure and
12 look at the deduction figures, and the income is a compilation of different things in the way they
13 compute the income. One of the things that they do, people have often times have many bank
14 accounts, even just two or three; they will have a couple of checking accounts and savings accounts
15 and they move money between those accounts. They will take money from their checking account
16 and put in the savings or put it in a money market. Well, the IRS already summons all your
17 accounts; they will take your deposits and add all of the deposits. They know that you have moved
18 money in between, intra account, but they add all those deposits, even though deposits have been
19 interaccount deposits. They add them all up together to get a total figure. That total figure is not all
20 new deposits. They are interdeposit accounts, so that income figure is artificially high. When you're
21 doing this, especially with trust accounts, these are big figures and they are interdeposit accounts
22 and you get very artificially income amounts. In any case, they are always going to be high income
23 amounts that do not reflect actual income figures. They use the highest income figure amount they

1 can and they call that income. With respect to deductions, even on the filers, the filers often have
2 and almost always have deductions. They don't even allow statutory deductions and they don't
3 allow the deductions that you filed on your Schedule C. They allow zero deduction because they
4 don't have what they call substantiation. They haven't substantiated your deductions. Yet those
5 cases allow them to do that, to allow zero deductions. So your assessment is based on income. You
6 can imagine with zero deductions, you can imagine how artificially high your notice of deficiency
7 going to be.

8 **MR. HANSEN:** Wow.

9 **MS. SPAID:** Yeah. And if you don't within 90 days petition the tax court, you are forever
10 liable for that notice of deficiency, the tax on that notice of deficiency. They do them all a little
11 differently. They used income average with professional people, like attorneys, doctors and so
12 forth. They take what profession you were in and how many years you had been in it and figure out
13 how much money you should be making. And that would be the income figure that they would use;
14 again, no deductions and that was how they figured your notice of deficiency. That has been
15 determined by law to be illegal. So they use, they come up with creative of ways of determining
16 your income that have no reality in fact.

17 **MR. SCHULZ:** Creative ways of denying you your due process.

18 **MS. SPAID:** Absolutely. Absolutely.

19 **MR. HANSEN:** So, any don't need any evidence at all?

20 **MS. SPAID:** Oh, no.

21 **MR. HANSEN:** And even if you use the Administrative Procedures Acts 556d and demand
22 proof, they don't have to give it to you?

23 **MS. SPAID:** You have 90 days from the date you get that notice of deficiency, you have

1 exactly 90 days to petition tax court. If you do not petition tax court within those 90 days, you are
2 forever barred from challenging that deficiency and you must pay that tax.

3 **MR. HANSEN:** Why would you not want to go to a district court?

4 **MS. SPAID:** You can't. Your only remedy is tax court.

5 **MR. HANSEN:** And tax court is an Article 1 court with no jury and an arrogant judge.

6 **MS. SPAID:** That's correct. We will call them a tax court judge.

7 **MR. CHAPPELL:** May I add a further comment? I totally agree with everything that Noel
8 Spaid has just described here. I have seen this type of thing more than once myself. I would add
9 another point, however. It is my perception that the document itself that purports to be a notice of
10 deficiency really is not. What they are sending out to these days is a computer generated document
11 called a 90-day letter. It is normally unsigned, it frequently does not have schedules and
12 explanations attached to it, and this, I don't believe it qualifies as a statutory notice of deficiency. I
13 have seen many of those statutory notices, but the advent of computerization I believe is a very
14 significant factor that contributes to IRS procedural flaws and defects and violations of their own
15 regulations and their own statutes. We are moving within the IRS into an Orwellian world in which
16 I believe that they are aiming for the time when almost no individual has examined or done an
17 audit, when these documents that are generated by computers are untouched by human hands;
18 unseen by the human eye; unverified by credible evidence; and human beings will not be merely as
19 active as even they are today because we are moving into a world of a computerized dominated
20 agency here, and I think that has carried with it many, many of the problems that we are
21 encountering.

22 **MS. SPAID:** I agree.

23 **MR. HANSEN:** Could this be the Biblical beast that's described in Revelations in the

1 Bible?

2 **MR. CHAPPELL:** It reminds you of that if you're a Bible reader.

3 **MR. HANSEN:** Question 256o. Is it true that many people default on their notice of
4 deficiency because they don't have the money to get to tax court?

5 **MS. SPAID:** Yes.

6 **MR. HANSEN:** Question 256p. Is it true that often IRS uses erroneous figures for income
7 when they send out a notice of deficiency?

8 **MS. SPAID:** Absolutely.

9 **MR. HANSEN:** And question 256q. Is it true that there are other ways that the IRS uses
10 figures that it knows are false on its notice of deficiency?

11 **MS. SPAID:** The key word is "knows" they are false.

12 **MR. HANSEN:** What's your authority for that?

13 **MS. SPAID:** Experience.

14 **MR. HANSEN:** Question 256r. Is it true that the result of this, as a result of this fact, that
15 the taxpayer is often sent an entirely false notice of deficiency?

16 **MS. SPAID:** Absolutely.

17 **MR. HANSEN:** And is it true that IRC 6211 is used to determine how a deficiency is made
18 and it does not allow for zero deductions when the taxpayer has claimed deductions?

19 **MS. SPAID:** That is correct.

20 **MR. HANSEN:** Question 256t. Is it true that the tax court has, however, ruled that the use
21 of zero line deduction in IRS issued notices of deficiencies is permissible even if the taxpayer has
22 claimed deductions?

23 **MS. SPAID:** That's right; case law permits it.

1 **MR. HANSEN:** When you say case law, do you mean tax court case laws?

2 **MS. SPAID:** That's correct. Tax court case law is permitted even though the law does not.

3 **MR. HANSEN:** I guess my question is, if the Internal Revenue Manual says that the IRS
4 cannot cite as their authority anything below the Supreme Court to apply to multiple taxpayers,
5 why is it that the tax court could violate that?

6 **MS. SPAID:** You got to ask the tax court that.

7 **MR. HANSEN:** Question 256u. Is it true that the law, that is IRC 6211, definition of
8 deficiency, does not permit the bank deposit analysis method of determining gross income of a
9 person?

10 **MS. SPAID:** That's correct, but again, case law permits it.

11 **MR. HANSEN:** Tax court case law?

12 **MS. SPAID:** Right.

13 **MR. CHAPPELL:** Sorry. May I add a comment? 6211 appears not to make provision for
14 any indirect method of proof, but the courts have allowed indirect methods where the taxpayer's
15 books and records have either been not existent or have found to be inadequate. A notable case is
16 the Holland case in the Supreme Court in which the Supreme Court allowed the net worth method
17 plus personal expenditures as an indirect method of proof, but the code does not allow them as this
18 question indicates.

19 **MR. HANSEN:** Now I am puzzled because yesterday we cited at least two different
20 Supreme Court cases, "Gould versus Gould", "Hassit versus Welch" and a number of others where
21 the Supreme Court ruled that if there is confusion or doubt about the evidence or the facts related to
22 a taxpayer's situation, that the doubt should be resolved in favor of the taxpayer. And yet they are
23 violating the Supreme Court by allowing fabricated evidence to be used against, not in favor, of the

1 tax; would that seem to be a contradiction?

2 **MS. SPAID:** Well, a bank deposit analysis is not fabricated, it's just that it's not accurate.
3 It's not accurate but it's not fabricated.

4 **MR. HANSEN:** So, it's hearsay?

5 **MS. SPAID:** Well, everything's hearsay.

6 **MR. HANSEN:** In a sense. Okay. Question 256v. Is it true that the IRS routinely issues
7 notices of deficiency that are based on assessments that IRS makes without following its own
8 procedures and manuals?

9 **MS. SPAID:** Yes.

10 **MR. HANSEN:** And 256w. Is it true that the issuance of a notice of deficiency or the 90-
11 day notice letter is the triggering event and a person so receiving such a letter must file his case in
12 tax court within 90 days or forever be held to the often totally false liability assessed in the grossly
13 false notice of deficiency?

14 **MS. SPAID:** Yes.

15 **MR. HANSEN:** And I guess once again, why -- I am still puzzled why -- I mean, the tax
16 court is an Article 1 court and because it's an Article 1 court -- first of all, is that true?

17 **MS. SPAID:** Yes.

18 **MR. HANSEN:** And as an Article 1 court, there is no avenue for, in this case, the Sixth
19 Amendment due process of law and the Seventh Amendment right to a jury trial. There is no jury
20 in a tax court?

21 **MS. SPAID:** No.

22 **MR. HANSEN:** A kangaroo court it would sound like?

23 **MS. SPAID:** That's correct.

1 **MR. HANSEN:** And so what happens if a taxpayer at some point wants a jury trial under
2 the Seventh Amendment, how can they get it if they do what you're saying and they go into a tax
3 court?

4 **MS. SPAID:** They can't. They do have appellate rights to the Ninth District, in California to
5 the Ninth District. They do have appellate rights, but there is no jury; it is a tax -- it is a judge only
6 and the judges all come out of Washington, D.C. This is where tax court originates. They're are
7 only satellite offices in major cities in the United States.

8 **MR. HANSEN:** So there is no way then the laws -- it sounds like the laws are structured to
9 keep all income tax litigations out of the district court so it never gets in front of a jury?

10 **MS. SPAID:** That is correct; that is absolutely right.

11 **MR. HANSEN:** Well, how is it that somebody who wants that Seventh Amendment right
12 respected, how can they get a jury trial? What do they have to do in order to not have a liability and
13 at the same time satisfy the requirements of the law?

14 **MS. SPAID:** They can't with respect to their tax returns. With respect to theoretical
15 questions we may be able to raise independent law suits in a district court. But with respect to their
16 1040s and their tax returns, they can't.

17 **MR. SCHULZ:** Is there any exception written into the Constitution for exception to the
18 Seventh Amendment protections for tax cases?

19 **MS. SPAID:** Not that I am aware of and I have to think more about that question.

20 **MR. SCHULZ:** Any exceptions written into the Constitution itself? Any exceptions for
21 Seventh Amendment rights, rights that are guaranteed by the Seventh Amendment written into the
22 Constitution?

23 **MS. SPAID:** You are not asking about exceptions, you're saying do tax issues, are they

1 subsummed or included in the Seventh Amendment?

2 **MR. SCHULZ:** No. I am asking if we have rights that are guaranteed by the Seventh
3 Amendment? Are there any exceptions, Seventh Amendment exceptions? Are there any exceptions
4 that are not -- any issue -- are tax matters excepted, are they as protected by the Seventh
5 Amendment as any other matter that we might have to go to court over?

6 **MS. SPAID:** You know, I haven't really thought about this much before that's raised right
7 at this moment, but the only venue that I know of for the 1040 returns is tax court. I can envision
8 someone bringing a lawsuit regarding his tax matters as an initial lawsuit in a district court, but I
9 have to, I really have to think about it. I am not sure that I can give you a ready answer at this
10 moment. I have to think of what issues he was bringing; if it was a deduction, no. If it was is this
11 deduction legitimate, no. I can't see that being brought as an original jurisdiction in the federal
12 district court.

13 **MR. HANSEN:** What is it that prevents it from being able to do that, I guess? Is there some
14 kind of a rule or statute or regulation that says you can't do that?

15 **MS. SPAID:** I think that the jurisdiction doesn't vest in the Ninth District. I don't think
16 there is original jurisdiction in the Ninth District. I think it's because it's an IRS issue that's vested
17 in IRS tax court.

18 **MR. HANSEN:** Wait a minute, though. The district courts are Article 3 courts which
19 means they can address any kind of constitutional or statutory issue.

20 **MS. SPAID:** I haven't thought about this issue. I am so used to doing it in the IRS venue. I
21 have to think about that.

22 **MR. HANSEN:** What I do know is that if an American is filing for a refund because they
23 have discovered, for instance, while listening to this hearing, that they are not liable for tax and

1 they've gone in and filed for a refund of all taxes paid, going all the way back to statutes of
2 limitation which is three years and you put a thing in there, like I personally did. I do know that the
3 IRS, if they deny your request, they will come back and say you can either go to tax court or you
4 can go to district court; so that would imply to me that they can indeed take their case before a jury
5 and it would seem that they would be more likely to get proper due process and a fair hearing if
6 they weren't in front of a --

7 **MS. SPAID:** Tax court judge.

8 **MR. HANSEN:** Yeah.

9 **MS. SPAID:** And you have the jury rights; jury rights is what concerned me. He should
10 have a jury right for anything over \$25 is general constitutional law. You may well be right that
11 there is dual jurisdiction.

12 **MR. HANSEN:** Okay. Question 256w. Is it true that the issuance of a notice of deficiency
13 or 90-day notice letter is a triggering event -- we got that. 256x is it true that this is why the
14 administrative statutory due process steps are so important?

15 **MS. SPAID:** Yes.

16 **MR. HANSEN:** And getting back to the issue we were just talking about with the district
17 courts; it sounds as though a presumption of liability is created by those persons who do not litigate
18 first in tax court, as such that you have to go in front of a jury or you want to go in front of a jury,
19 the law is biased against you, discriminates against you as far as the burden of proof?

20 **MS. SPAID:** There should be no presumption of liability.

21 **MR. HANSEN:** Well, because, for instance, the Antiinjunction Act -- are you familiar with
22 that?

23 **MS. SPAID:** Somewhat.

1 **MR. HANSEN:** The Antiinjunction Act supposedly requires a person to pay off all of the
2 imputed liability they have, that is imputed by the government, not by them, before they can go in
3 front of a district court. So there is a presumption of liability before they even get in the court.
4 Now, would that kind of a situation represent a violation of due process? Does due process of law
5 rule out the possibility that there are biases or presumptions? Can we call it due process if there are
6 presumptions involved?

7 **MS. SPAID:** Well, there are presumptions in law that affect burden of proof, but they don't
8 necessarily rule out due process; they just affect burdens of proof.

9 **MR. HANSEN:** Question 256y. Is it true that the federal district court has refused to reach
10 the merits of a claim that tax court lacks jurisdiction, lacks subject matter jurisdiction in those cases
11 where the IRS has issued notices of deficiency after denying the taxpayer their administrative
12 statutory due process rights?

13 **MS. SPAID:** Yes. The court won't find on that issue at this time.

14 **MR. HANSEN:** Question 256z. Is it true that the IRS Handbook for Examination of
15 Returns reads in part, quote: "Examiners are responsible for determining the correct tax liability as
16 prescribed by the Internal Revenue Code. It is imperative that examiners can identify the applicable
17 law correctly, interpret its meaning in light of congressional intent and in a fair and impartial
18 manner, correctly apply the law based on the facts and circumstances of the case."?

19 **MS. SPAID:** Yes.

20 **MR. HANSEN:** MR. Turner?

21 **MR. TURNER:** Excuse me. Yes, that is the case.

22 **MR. HANSEN:** 256aa. And what's your authority for that, Ms. Spaid?

23 **MS. SPAID:** Examination of return hand books.

1 **MR. HANSEN:** Okay. Question 256aa, is it true that the IRS Handbook for Examination of
2 Returns reads in part, "Conclusions reached by examiners must reflect correct application of the
3 law, regulations, court cases, revenue rulings, et cetera. Examiners must correctly determine the
4 meaning of statutory provisions and not adopt strained interpretation."?

5 **MS. SPAID:** Yes.

6 **MR. HANSEN:** And what do you think they mean there by "strained interpretation"?

7 **MS. SPAID:** Well, not reach out for something that's obscure; just accept it at its face
8 value.

9 **MR. HANSEN:** Would deposit information be such an example of such strained --

10 **MS. SPAID:** Yes, I think it would. That's a good example.

11 **MR. HANSEN:** Okay. Question 256bb. Is it true when a taxpayer requests what
12 regulations and statutes the examiner used in making his determination of tax liability, the IRS
13 often refuses to cite the law?

14 **MS. SPAID:** Absolutely.

15 **MR. HANSEN:** And question 256cc. Is it true that without an assessment there can be no
16 liability?

17 **MS. SPAID:** Absolutely.

18 **MR. HANSEN:** Question 256dd. Is it true that the IRS disclosure officers are making the
19 assessments?

20 **MS. SPAID:** Often. Not always but often.

21 **MR. HANSEN:** Is it true that there is no law in which a disclosure officer is authorized to
22 make an assessment?

23 **MS. SPAID:** That's correct. It's a nondelegable duty.

1 **MR. HANSEN:** Is that because they might be, might have a pocket commission with an A
2 on it instead of an E?

3 **MS. SPAID:** That may be, but it's also because that is not their training. The examiners are
4 trained in examination and assessment.

5 **MR. SCHULZ:** MR. CHAPPELL, would you concur? Would you agree MR.
6 CHAPPELL, there is no law in which a disclosure officer is authorized to make an assessment?

7 **MR. CHAPPELL:** I emphatically agree with statement, yes.

8 **MR. HANSEN:** 256ff. Is it true that an assessment made by disclosure officers is invalid as
9 a matter of law?

10 **MS. SPAID:** Yes.

11 **MR. HANSEN:** And is it true that there are over 100 regulations that apply to Form 1040
12 crossed reference by OMB 1545-0074, and that the IRS refuses to identify which ones they use in
13 making determinations that a citizen is liable to file a Form 1040 and is liable to pay the tax?

14 **MS. SPAID:** Absolutely.

15 **MR. HANSEN:** And is it true that a lien arises at the time an assessment is made?

16 **MS. SPAID:** Yes.

17 **MR. HANSEN:** And 256ii. Is it that the evidence underlying the entries on the certificate
18 of assessments and payments is relevant to the issue of whether an assessment was made?

19 **MS. SPAID:** Yes, it is.

20 **MR. HANSEN:** And what authority do you have for that?

21 **MS. SPAID:** "Beall versus U.S. Civil Action 89C 6500, North Dakota 3, Eastern Division."

22 **MR. SCHULZ:** MR. Bodine, do we have that exhibit? No? Sorry.

23 **MR. HANSEN:** And 256jj. Is it true that without an assessment there is no liability?

1 **MS. SPAID:** Yes.

2 **MR. CHAPPELL:** May I add further comment? Without an assessment, there really is no
3 tax. So if the Internal Revenue Service Collection Division undertakes collection activity with
4 regard to an unassessed amount, they are really only dealing with a deposit in an expense account.
5 And they are engaged in an activity known as extortion because there is no tax to be collected.

6 **MR. HANSEN:** And could an American who had received a notice of deficiency, for
7 instance, use the FOIA to obtain a copy of the original assessment that's been signed by the
8 assessment officer? Have you attempted to do that where the assessments were kind of inflated or
9 maybe guessed at?

10 **MS. SPAID:** You use a FOIA and get your master file. As Ms. Osborn explained, that's
11 very difficult to decipher all that. Very often you will find no that assessment has been made at all,
12 and there can be no liens based on no assessment; you find there is no liability.

13 **MR. HANSEN:** Okay. Is that adequate proof necessary to keep you out of tax court and
14 district court?

15 **MS. SPAID:** They say no.

16 **MR. HANSEN:** Who does?

17 **MS. SPAID:** The IRS, but you fight them; we fight them. And sometimes the cases just
18 disappear along the way of the fight.

19 **MR. HANSEN:** What do you mean disappear?

20 **MS. SPAID:** They stop fighting.

21 **MR. HANSEN:** The IRS?

22 **MS. SPAID:** Yes.

23 **MR. HANSEN:** Stops fighting because they -- is that because they know that you found

1 out the truth?

2 **MS. SPAID:** Yes.

3 **MR. SCHULZ:** Is the leading case on this issue the Nipper case?

4 **MS. SPAID:** I wouldn't come out and say that. I'd say most of the cases that you win this
5 way just go away. You win individually; you don't set case law; they don't let it get that far.

6 **MR. HANSEN:** Are you implying then that a successful and effective technique to stop
7 things before they get into court is to FOIA a copy of the original assessment certificate, Form
8 23C?

9 **MS. SPAID:** Right; and if you can prove that no assessment was ever made and legally
10 made, sometimes they will go away.

11 **MR. HANSEN:** Have you ever seen them fabricate a 23C assessment?

12 **MS. SPAID:** I have not personally, but my assistant may have. My assistant does the
13 FOIAs.

14 **MR. HANSEN:** Question 256kk. Is it true that the taxpayer is helpless as he tries to
15 exercise his statutory, that is due process rights, to these lower level administrative remedies to
16 resolve his audit difference without going into tax court?

17 **MS. SPAID:** Very often. You can't force them to give you these remedies, that's the point.
18 You can demand them. I have had clients written four or five letters, have begged to have these
19 remedies; you just can't force the IRS to do anything. They're the power people.

20 **MR. SCHULZ:** Not even Johnny Cochran?

21 **MS. SPAID:** He's got more power than me.

22 **MR. SCHULZ:** So, whether it's pro se, someone on the pro se end of the scale all the way
23 up to somebody who can afford attorneys, doesn't matter, Johnny Cochran; they don't want to give

1 you these administrative procedures. If they want to deny you your due process rights, they are
2 going to deny them?

3 **MS. SPAID:** That's right. They have the power, they know who they are. They know how
4 to abuse power.

5 **MR. SCHULZ:** When you say someone like Johnny Cochran might have the power, you
6 mean political power?

7 **MS. SPAID:** No, I mean IRS has the power.

8 **MR. SCHULZ:** But when you say Johnny Cochran might have the power, what you're
9 implying is people can pull political strings?

10 **MS. SPAID:** Sure.

11 **MR. SCHULZ:** And keep these -- it takes political power to get your due process rights
12 often when you're dealing with these IRS agents?

13 **MS. SPAID:** Political power has always been power. That is life. Not pretty but that's life.

14 **MR. HANSEN:** Is it easier to get the IRS off your back if the correspondence that you've
15 exchanged with them says, you know, attorney or whatever like that? Do you get more cooperation
16 as far as your due process rights if they think you're an attorney? For instance, if they think the
17 taxpayer they are attacking is an attorney, does that help?

18 **MS. SPAID:** Yeah. Attorneys get through the IRS in a different way. We get through
19 differently. We have different conversation with everybody than does a pro se in terms of not just
20 attorneys, but how do you say it, in any kind of litigation or any kind of possible litigation scenario
21 attorneys get through a little easier because we talk a different language.

22 **MR. HANSEN:** You're speaking in the context of a person such as yourself who is
23 representing a client?

1 **MS. SPAID:** Right.

2 **MR. HANSEN:** Under a 284i, power of attorney, but I am referring to is the situation
3 where the actual taxpayer in question is an attorney; in that case does the IRS tend to be more
4 respectful, professional courtesy, per se?

5 **MS. SPAID:** I think so.

6 **MR. HANSEN:** Of attorneys?

7 **MS. SPAID:** I think so.

8 **MR. HANSEN:** And as long as you don't sign your correspondence with penalty of
9 perjury, if you say "attorney at law" then would that help get them off your back?

10 **MS. SPAID:** You mean if somebody did that and wasn't an attorney at law?

11 **MR. HANSEN:** Yeah.

12 **MS. SPAID:** I wouldn't advise that; that could be a crime.

13 **MR. HANSEN:** Is it true that the tax imposed upon individuals required to make a return
14 under Section 6012a of the Internal Revenue Code is imposed upon the individual's taxable
15 income?

16 **MS. SPAID:** Yes.

17 **MR. HANSEN:** Is it true that Section 6020b requirement for the secretary to make the
18 required Section 6012a return is to require the secretary to compute the taxpayer's taxable income
19 so the correct amount of tax owed can be tabulated?

20 **MS. SPAID:** Correct.

21 **MR. HANSEN:** Is it true that when an individual required to make a return under Section
22 6012a of the Internal Revenue Code fails to make the required return, and the Internal Revenue
23 Service issues a notice of deficiency, the amount of tax claimed as due by the secretary is not based

1 upon the taxable income but is computed without regard to the requirements of sections 62 and 63
2 of the Internal Revenue Code from which adjusted gross income and taxable income are computed
3 from gross income?

4 **MS. SPAID:** Yes.

5 **MR. HANSEN:** And is it true that, question 260. Is it true that the IRS attempts to obtain
6 assessments of more tax than would otherwise be required by law as an unauthorized additional
7 penalty on those who are required to but do not make federal incomes tax returns?

8 **MS. SPAID:** Absolutely.

9 **MR. SCHULZ:** MR. Turner, you concur?

10 **MR. TURNER:** Would you say it again, please? I'm sorry. I was reading.

11 **MR. SCHULZ:** Admit that the IRS attempts to obtain assessments of more tax than would
12 otherwise be required by law as an unauthorized additional penalty on those who are required to
13 but do not make federal income tax returns?

14 **MR. TURNER:** I can say yes to that in the sense that when someone does not file a return,
15 IRS will assess an amount of income that they deem to be the closest they can estimate and that
16 will be often times almost always inflated and not accurate, and most times they will admit. But it's
17 their way of trying to enforce compliance with the voluntary tax law so that you will file a return
18 with your own numbers.

19 **MR. HANSEN:** But isn't it true that the person making that estimate of tax, of income, of
20 taxable income, doesn't that person need to have, in order to meet the burden of proof, doesn't that
21 person need to have a personal firsthand knowledge of the amount of income that was imputed?
22 And how can anyone except the taxpayer have that?

23 **MR. TURNER:** Well, you can make that argument. I don't think -- I am not a lawyer but I

1 know the IRS gets away with looking at bank records from -- that were summoned by a summons
2 and treating all of those deposits as income, when in fact they could just be any other type of source
3 where the person had somebody repaying a loan to him and that money went into his bank account.
4 That money would not necessarily in normal situations be considered income, even the IRS would
5 admit that. But in a situation where the IRS is involved filing a return for you, they often will put
6 figures down that will be included as income.

7 **MR. HANSEN:** Is it true that the word shall as used in Section 6001 one of the Internal
8 Revenue Code imposes a mandatory duty on those to whom this statute applies to keep records,
9 render statements, make returns and to comply with the rules and regulations promulgated by the
10 Secretary of the Treasury?

11 **MS. SPAID:** Shall in all codes, state and federal, is mandatory.

12 **MR. HANSEN:** Is it true, question 262. Is it true that the word "shall" as contained in
13 Section 6011 of the Internal Revenue Code imposes a mandatory duty on those to whom the statute
14 implies to make a return or a statement according to the forms and regulations prescribed by the
15 Secretary of the Treasury?

16 **MS. SPAID:** Yes.

17 **MR. HANSEN:** Now, under Section 7203, there's a requirement to, quote, within the body
18 of the statute it says, "to make a return." Now, the piece of paper that you file is called a return.
19 Now, would that imply that, and the 7203 says "you shall make a return," but it doesn't say you
20 should file a return. The only place you see the word file is in the title of that statute. In the 7800
21 series of regulations it says that the title of the statute does not establish a legal obligation and does
22 not have the force of law. So, the question is, can a person make a return and throw it in the
23 garbage can and still satisfy 7203, to make a return?

1 **MS. SPAID:** Technically. I'd hate to defend on that.

2 **MR. HANSEN:** All right. And question 263 --

3 **MR. SCHULZ:** Just to be clear on 261, 262 and 263, so we don't miss the point; the key
4 words there, of course, "to whom the statute applies." We have heard testimony earlier from Irwin
5 Schiff and others that the statute does not apply to most Americans. So read 263 with that in mind.

6 **MR. HANSEN:** Is it true that the word "shall" as contained in Section 6012 of the Internal
7 Revenue Code impose a mandatory duty on those to whom the statute applies to make returns?

8 **MS. SPAID:** Yes.

9 **MR. HANSEN:** 264. Is it true that the word "shall" as contained in Section 6020(b) of the
10 Internal Revenue Code impose a mandatory duty to whom the statute applies to make returns?

11 **MS. SPAID:** Yes.

12 **MR. SCHULZ:** So, these statutes don't apply, 6001, 6011, 6012, and 6020(b); if these
13 statutes do not apply, then there is no mandatory duty?

14 **MS. SPAID:** That's correct.

15 **MR. HANSEN:** And would a requirement that a person be liable make them apply? In
16 other words, is liability the key factor here that decides whether it applies or doesn't?

17 **MS. SPAID:** Yes.

18 **MR. HANSEN:** And would you agree that there is no statute that makes anyone liable?

19 **MS. SPAID:** No. He says the person is not liable, they are outside the statutes, they're
20 outside the code book.

21 **MR. HANSEN:** 265. Is it true that Section 6020(b) of the Internal Revenue Code states, "If
22 any person fails to make any return required by an Internal Revenue law or regulation made there
23 under at the time prescribed therefore, or makes willfully or otherwise a false or fraudulent return,

1 the secretary shall make such return from his own knowledge from such information as he can
2 obtain through testimony or otherwise"?

3 **MR. TURNER:** That's correct.

4 **MR. CHAPPELL:** May I have a comment on that?

5 **MR. HANSEN:** Yes.

6 **MR. CHAPPELL:** It is my view that Section 6020(b) is typically misapplied in that it is
7 frequently invoked by the Internal Revenue Service to prepare a return for an individual who has
8 failed to file a return. I do not believe that that code section was ever intended to be so applied for a
9 couple of reasons. The immediately preceding section is 6020a, which seems quite clear to apply to
10 individuals, whereas 6020(b) seems to me to have been intended to apply to business entities. You
11 will note the word in the quoted section that you just read it uses the phrase "the Internal Revenue
12 laws," it does not use the phrase "the income tax law." You also will note that toward the end of the
13 sentence it says "through testimony or otherwise"; you are not going to find testimony available for
14 an individual. You find normally an abundance of testimony available for a business. You will find
15 business managers, you will find bookkeepers, you will find corporate controllers, you will find
16 accountants, you will find computer operators, you will find keypunch operators, you will find
17 shop foremen, you will find invoices, you will find customer lists; you will find a lot of evidence,
18 much of it testimonial. That is not true of an individual. Moreover, Section 6020(b) is a very, very
19 old section. It originated somewhere back in the mid1800s; many decades before there ever was an
20 income tax. If you look at its legislative purpose and the text of its language, I do not believe it
21 should properly be invoked to allow the IRS to prepare a return that was not filed by an individual.

22 **MR. HANSEN:** Thank you,

23 **MR. CHAPPELL.** Is it true that nowhere in the Internal Revenue Code has Congress

1 indicated that the word "shall" as used in Section 6020(b) of the Internal Revenue Code has a
2 different meaning than as used in sections 6001, 6011 and/or 6012 of the Internal Revenue Code?

3 **MS. SPAID:** Yes.

4 **MR. HANSEN:** 267. Is it true that in the absence of a congressionally declared distinction
5 for a word used in the same code, that is here the Internal Revenue Code, in the same subtitle that is
6 here Subtitle F, in the same chapter, that is Chapter 61, and in the same subchapter, that is
7 Subchapter A, to be given a different meaning, the same word is to be given the same meaning?

8 **MS. SPAID:** Yes.

9 **MR. HANSEN:** 268. Is it true that if an individual required to make a return under section
10 6012a of the Internal Revenue Code fails to make the required return, the Secretary of the Treasury
11 does not make the return mandated by Section 6012b of the Internal Revenue Code?

12 **MR. TURNER:** They do not.

13 **MR. HANSEN:** 269. Is it true that the IRS computer system, the IDRS --

14 **MR. SCHULZ:** Excuse me; did you say "they do not"?

15 **MR. TURNER:** That's what I said.

16 **MR. SCHULZ:** The question was, does the Secretary of the Treasury make the return
17 mandated by 6020(b)?

18 **MR. TURNER:** You're asking if the, under Section 6012a, right?

19 **MR. HANSEN:** Yes.

20 **MR. TURNER:** My understanding --

21 **MR. HANSEN:** 6012a is taxes collectable by stamp and those are usually alcohol, tobacco
22 and firearms taxes, right? I am sorry, that's different. That's 6020a, not 6012a. I'm sorry.

23 **MR. SCHULZ:** Let me ask the question again. Do you agree that an individual required to

1 make a return under Section 6012a of the Internal Revenue Code, that if he fails to make the
2 required return, the Secretary of the Treasury does not make the return mandated by Section
3 6020(b) of the Internal Revenue Code?

4 **MR. TURNER:** Right. I agree.

5 **MR. HANSEN:** Thank you. And 269. Is it true that the IRS computer system, Integrated
6 Data Retrieval Systems was programmed to require a tax return to be filed in order to create a tax
7 module for each taxable year?

8 **MR. TURNER:** I agree.

9 **MR. HANSEN:** 270. Is it true that if an individual required to make and file a return under
10 Section 6012(a) fails to file such a return that the secretary creates a "dummy return" showing zero
11 tax due and owing.

12 **MS. SPAID:** Agree.

13 **MR. TURNER:** I agree also.

14 **MR. HANSEN:** Do they do this because they don't want the statute tripped to run out so
15 they can collect a tax?

16 **MR. TURNER:** Well, no. If no tax return is filed, there is no statute in the harms way, so
17 what they are trying to do is move into the position of being able to collect the tax. So as we have
18 learned here today, if there is no assessment, there can be no tax, and without that, the collection
19 officer has no legal way to try to collect. So this is a move on the part of the IRS to establish an
20 assessment so that they can move towards collection.

21 **MR. HANSEN:** But doesn't an assessment imply a liability and how can there be a liability
22 if the amount owing on the return is zero? So is it really an assessment in that case?

23 **MR. TURNER:** Well, that's a big subject and I am going to deal with a little bit of that a

1 little bit later. But suffice it to say that the government must have an assessment of tax owed. Now
2 when they make a dummy return, if you look at the master file, it will show that a transaction code
3 that it's for zero and there is an elaborate process that IRS would offer as to why they do that. But
4 the point is, without a tax, they can't -- without an assessment they can't say that the person owes a
5 tax; without the tax being owed, they can't collect.

6 **MR. SCHULZ:** Ms. Spaid, would you mind relinquishing your chair to Irwin Schiff. Irwin
7 Schiff, would you mind coming up.

8 **MR. HANSEN:** Thank you very much.

9 **MS. SPAID:** You're welcome.

10 **MR. SCHULZ:** Remind you, MR. Schiff, that you're still under oath.

11 **MR. SCHIFF:** Yes. Can I make a couple of comments about the tax courts, some short
12 comments?

13 **MR. SCHULZ:** Yes, certainly.

14 **MR. SCHIFF:** The tax court happens to be, probably the greatest, it is the lynch pin in the
15 government's fraudulent collection of the income tax. Let me just read you in 1942 --

16 **MR. SCHULZ:** Excuse me, MR. Schiff. Is Ms. Spaid right outside the door? Ms. Spaid,
17 would you mind, if it's not inconvenient, would you mind having a seat here in the front row and I
18 would like you to hear the testimony that's about to come from MR. Schiff and others. Thank you.
19 Irwin, would you continue?

20 **MR. SCHIFF:** Yes. This is really, this is the heart, practically the heart of the fraud. On
21 October 21, 1942 U.S. Code, while we were involved in the second world war, Congress passed a
22 law in which they said that, declaring that the United States Board of Tax Appeals should be
23 known as the tax court of the United States with the same power and jurisdiction that formally had

1 been provided for by the United States Board of Tax Appeals. Nobody ever considered the Board
2 of Tax Appeals a court at all, it was a government agency not any different than the U.S. Labor
3 Department. In the middle of World War II, they changed the name of the Board of Tax Appeals to
4 the United States Tax Court without any change of power, tenure or anything else. They did this --

5 **MR. SCHULZ:** Does this mean that it was and remains an administrative court?

6 **MR. SCHIFF:** Actually, it's not even a court of law. It's not even a court. I don't know
7 what it is. As a matter of fact, a very good case to find out what this is, the case is "Fritech versus
8 the Commissioner" of Internal Revenue; that will be found at 111 Supreme Court 2631. This was a
9 very interesting case because it involved an appointment by the Chief Judge who used to be called
10 the Chairman of the Board. Right after this law, the Chairman of the Board became Chief Judge.
11 They threw some holy water on him and he became Chief Judge. Now, so the Chief Judge had to
12 make an appointment and according to the Constitution, only a head of a department or a head of a
13 court can make an appointment. So the thing went up to the Supreme Court as to what was the Tax
14 Court, was it a department or a court. The Commissioner of Internal Revenue claimed that the Tax
15 Court was a department and not a court. How do you like that? There was a five to four decision;
16 the majority ruled for the purposes of making appointments, for the limited purpose, we will
17 consider them to be a court within the appointments clause of the Constitution. But he said, they
18 are not a court of law, they are a court of record. I don't even know what a court of record is. In a
19 scathing dissent written by Judge Scalia, he said no way are they a court of law. He said the judges
20 are so-called judges, are not appointed for life and he says we have always considered them a
21 government agency and not a court. Now, what does this mean? After they were renamed a court,
22 their decisions suddenly became court decisions.. You will see when they want to rule against us,
23 they cite a slew of Tax Court decisions and they hold them against us. Now, district courts are not

1 bound in the slightest by Tax Court decisions; if they don't agree with a decision, like flicking a
2 little mosquito off your wrist; we don't hold that.

3 **MR. SCHULZ:** Well, is it fair to say that the district courts view that the Tax Court
4 decisions as merely an opinion by some attorney?

5 **MR. SCHIFF:** Yeah. If they want to use them for their purposes, they cite them; if they
6 don't want to use them, they will say we don't agree. The point is this, they are using the opinions
7 of not a court of law as opinions of a court. The average person doesn't know that the tax court is
8 not a court of law. As a matter of fact, if you look in Title 28 where they list all courts, you think
9 it's a court of law. Now what happens is this; you shouldn't even be in tax court if you haven't filed,
10 because you can only be in tax court if there's a deficiency in the prior assessment. The definition
11 of a deficiency is shown in Section 6211 says, "A deficiency is the amount of tax over and above
12 the tax shown by the taxpayer on his return if a return is filed by the taxpayer and the amount is
13 shown thereon." So if you don't file a return, there cannot be a deficiency. So what they do is this,
14 they send you a deficiency notice anyway. Now, if you were like I was the first time I went to tax
15 court, it was in Washington. I walked in and there's this big palace, like a Grecian temple -- United
16 States Tax Court. You really think you're walking into a court. So now, why am I there? I didn't
17 file. So the only reasons that I could give was A, I had no liability, and income didn't fall into any
18 of the taxing clauses of the Constitution. I raised legal arguments; what I didn't know is that the tax
19 court had no jurisdiction to consider legal arguments. The only jurisdiction that tax court has is to
20 determine a deficiency. In other words, somebody files a return -- let me give you an example of a
21 case. A woman files a return and she works in a boutique. Because she works in a boutique, she has
22 to wear the clothes that is sold in a boutique. She claims that after, even though they sell them to
23 her wholesale, she claims after she buys these clothes, she never wears them. When she's home, she

1 wears tank tops and jeans. So, she took the cost of the clothes she had to buy and treated them as a
2 business expense. The IRS disallowed it and said that she owed more, so they went to tax court.
3 Incidentally, the existence of tax court proves that IRS agents have no authority to claim that you
4 owe more in taxes than you put on your return. If they did, there wouldn't be tax court. What IRS
5 agents have to get you to do is agree that you owe more in taxes than you put on your return. If you
6 don't agree, they have to send you to tax court and you have to petition the tax court and give them
7 the jurisdiction to determine what you owe. But in any case, this girl who works in a boutique, she
8 wasn't claiming she didn't have a tax liability; she didn't claim the income tax doesn't fall into any
9 of the taxing clauses of the Constitution. She believed she owed the tax, but under the law she was
10 allowed to take a deduction. So, in essence, in that circumstance the Tax Court was like a referee.
11 They are not addressing a legal or constitutional issue. When you go, like I did, the first time, you
12 don't know that. I say -- Hey, I am not liable for the tax. Income is a corporate profit. They don't
13 say, "Look, why are you raising this issue here for, we don't have any jurisdiction to decide those
14 issues." They say such issues are "frivolous." They have been rejected time and time by other
15 courts. They don't tell you we don't have any jurisdiction to decide constitutional issues because
16 they are not a court of law and this is where the frame-up comes. Incidentally, the law says, which
17 I have right here. The deficiency, the law on deficiency says the deficiency shall be determined,
18 6212, by the secretary shall determine the deficiency. Deficiencies are normally determined by
19 somebody in the IRS. They are never determined by the secretary. So every deficiency notice was
20 fraudulent to begin with. So the existence of tax court is a lynch pin in the whole fraudulent
21 collection of income tax on the part of the government. It is fraud from beginning to end. So you
22 should know is -- and I don't go to tax court because all I do is, when we get a deficiency notice, it's
23 signed by somebody. Even if it was signed by the commissioner, there is a case, the "Federal Crop

1 Insurance versus Merrill," in which the Supreme Court has ruled that if you pay attention to what a
2 government agent says, you're taking a risk. So, if you get a deficiency notice, all you got to do is
3 send the person who sent the deficiency notice and say wait a minute, the law says "the secretary";
4 you show me your delegation of authority from the secretary to prepare the deficiency. You'll never
5 get an answer to that letter because there is no such delegation of authority because the secretary is
6 not going to delegate to anybody to determine a tax that's not provided for by law. So, the existence
7 of tax court and the whole thing involved in the tax court is part of this monumental fraud
8 perpetrated by the government. It's very hard for the average person to unravel the extent of the
9 fraud involved in this situation.

10 **MR. HANSEN:** So, MR. Schiff, are you then saying that you don't necessarily -- that you
11 can safely ignore these notices of deficiency because there really isn't a liability?

12 **MR. SCHIFF:** I don't say ignore it. We developed a letter, we said before I petition, I want
13 to make sure that the person who sent me the deficiency notice is authorized to send a deficiency.
14 We notice that the law says the secretary, which means the secretary or his delegate.

15 **MR. HANSEN:** So, you respond with a letter saying show me the delegation?

16 **MR. SCHIFF:** And the legislative regulation that requires me to respond. They never
17 answer the letter because they can't.

18 **MR. HANSEN:** So, they default?

19 **MR. SCHIFF:** That's right.

20 **MR. HANSEN:** Does the existence of that default immunize you against having to --

21 **MR. SCHIFF:** Technically it does; some people never hear from them again; some people,
22 they start recycling them; they send them a 30-day letter or they ignore it and they send them a
23 notice of -- they send them a seizure notice. But since they ignore Section 6211, 6212, if they try to

1 seize your property, then Section 7433, you can sue the government if they ignore any particular
2 statute. I comply with the law.

3 **MR. SCHULZ:** MR. Schiff, just before you took the chair, we asked and received an
4 answer from MR. Turner to question number 270, is 270 on the screen, MR. Bodine? The question
5 was, is it true that an individual required to make and a file a return under Section 6012(a) -- if an
6 individual required to make and file a return under Section 6012(a) fails to file such a return, that
7 the secretary creates a dummy return showing zero tax due and owing. We have established
8 previously that any liability, any requirement under section 6012(a) is a purported liability. But the
9 question I would like to ask you, MR. Schiff is, does the secretary really create a dummy return
10 showing zero return? Showing zero tax due and owing; is it really the secretary that does that?

11 **MR. SCHIFF:** No, no. This is part of the scam. First of all --

12 **MR. SCHULZ:** Excuse me for interrupting. The law says the secretary shall do it, but does
13 the secretary do it?

14 **MR. SCHIFF:** First of all, it says -- right, if you don't file a return, the secretary shall and it
15 has to be subscribed to. There is no provision in the law for a dummy return. There's no such thing
16 as a dummy return. Section 6201 says the secretary shall assess all taxes determined by the
17 taxpayer or the secretary as to which returns or lists are made. They made a return. When the IRS
18 prepares a dummy return, there is no signature. You can see in my book, when they prepare a
19 dummy return, is what they did for me. Here's the returns they prepared. Number one, they are not
20 signed; here they are if you want to see them. They are not signed by anybody and they don't
21 contain any information. Now the reason they do this is before anyone can owe a tax, there has to
22 be a return filed. There has to be an assessment. So what they do is this, if you don't file a return,
23 you fall outside the code, they prepare a dummy return and they punch into the computer a return

1 was filed. The computer doesn't know a dummy return from a return. Then they assess a zero
2 which they have no authority to do because Section 6203 says the assessment officer shall assess a
3 liability. A zero is an absence of a liability of the Internal Revenue Service Code. Listen to this.
4 The secretary may at any time within the period prescribed make a supplemental assessment
5 whenever it is ascertained that an assessment is imperfect or incomplete. So there cannot be a
6 deficiency assessment unless there is an original assessment and there can't be an original
7 assessment unless you send in a tax return showing you owe a tax due.

8 **MR. HANSEN:** Because it's voluntary, right? Self-assessment?

9 **MR. SCHIFF:** Right.

10 **MR. TURNER:** It's my opinion everything he just said in the last several minutes, he's a
11 hundred percent correct.

12 **MR. SCHIFF:** It's all here.

13 **MR. SCHULZ:** All right, let's turn to question 271. Is it true, that this dummy return sets
14 forth no financial data from which the gross income, adjusted gross income or taxable income can
15 be computed?

16 **MR. TURNER:** That's true.

17 **MR. SCHIFF:** They just do it for the purposes of being able to tell their computer that a
18 return was filed. They want to be able to assess the deficiency as an additional amount assessed.

19 **MR. TURNER:** I would just add that from personal experience, when I worked for IRS, I
20 had occasion from time to time to see original dummy returns. I would have to order them and then
21 return them back to the Service Center. But I know for a fact from that standpoint that the returns
22 don't have any income information on them; they also don't declare a tax and the IRS has it motives
23 for doing it that way. That's the fact; that's what a dummy return is.

1 **MR. SCHIFF:** And there is no provision in the code for a dummy return. The returns
2 prepared by the secretary as defined in Section 6020(b) assumes that there would be information
3 put on those returns. If it were tobacco tax returns, if it were alcohol tax returns, you better believe
4 they would have said they distilled a thousand bottles and we have proof and they would have put
5 an amount, they have assessed the excise tax.

6 **MR. SCHULZ:** So, we have many working men and women in this country; some of those
7 working men and women who are employed by, work for companies that are withholding from
8 their paychecks this tax; many of these working men and women have come to the conclusion, let's
9 say, that this tax is unconstitutional. There is no constitutional or statutory authority. The IRS
10 government, federal government has no constitutional or statutory authority to force them, to
11 compel them to file a tax return or to pay this tax, so they don't file a tax return. But their employer
12 for whatever reason, fear or otherwise, ignorance; they continue to withhold and they send their W-
13 2s into the IRS, to the federal government. So, the IRS agents with the help of their computers,
14 they're able to see that this person worked and earned -- was their labor, they received remuneration
15 for their labor, but they didn't get a -- there was no return filed by this working man or woman. And
16 so they come up with this dummy return, this substitute return and they make an assessment of
17 some kind; is that what's happening here?

18 **MR. TURNER:** It's very definitely what's happening. If the IRS didn't utilize this process,
19 the entire income tax system would collapse.

20 **MR. SCHIFF:** Bob, that's one of the reasons they come up with a dummy return. If I
21 prepare a dummy return, they can't even claim that they prepared another return because Section
22 6201 says the secretary shall assess all taxes determined by the taxpayer or the secretary. If I
23 determined I owe nothing and I send it on a return, they are not authorized to prepare a different

1 return with a different amount. They can only do that if you have --

2 **MR. SCHULZ:** Is the IRS, is this not the equivalent of the IRS planting evidence? I mean
3 is this any different than the corrupt policeman who wants to harass or get something from
4 somebody for whatever reason and they plant some evidence in their automobile, like an ounce of
5 something or other?

6 **MR. TURNER:** For the purposes of making your illustration, MR. Schulz, that's close
7 enough. That's good enough.

8 **MR. SCHULZ:** It's planted evidence.

9 **MR. TURNER:** That's a good enough argument. And I might add that the -- we help them
10 out. We can't find a law that requires us to have a social security number or supply it to our
11 employer or fill out under penalty of perjury a W-4 which translates later in a W-2 being sent to the
12 Internal Revenue Service which then eventually convicts you, so to speak. It eventually gives them
13 the information to say, Ah, this must be a person that may have a tax liability here, and when you
14 don't file, when their computer system tries to match up that income information, W-2, 1099, which
15 are just strictly automated things in the computer system; when they try to match that up with the
16 absence of a tax return, then this whole automated process starts.

17 **MR. SCHULZ:** So, they're hacking their codes, their dates have passed; they are engaging
18 in all of this chicanery and deceit, and even in the case of -- to counter, I would imagine, to counter
19 those in the -- to the extent that there is a tax honesty movement made up of people who seem to
20 understand what their rights are, seem to understand what their rights are under the Constitution
21 and the law. So there is, from everything that I have read, there is a growing number of American
22 working men and women who are learning their rights and they are not filing and so the federal
23 government uses all of this power, not authority as you correctly pointed out yesterday, MR.

1 Turner. They use all this power to get you into court, to get you before them, denying due process
2 routinely day after day in their day-to-day administrative procedures; is this not the -- then on top
3 of it, you try to get them to answer these questions through a petition for a redress of grievances,
4 your First Amendment right and they ignore you.

5 **MR. TURNER:** MR. Schulz, besides, as a former revenue officer, besides the things that
6 we discussed earlier today that had to do with Fourth Amendment and your assets on whether or
7 not due process is afforded the taxpayer, the American citizen; besides learning that I didn't have
8 the authority that I needed properly to do those things, this issue of Internal Revenue Service
9 fabricating, breaking their own rules, not to mention the statute, to obtain an assessment which
10 absolutely has to be done before they can collect and that's the name of the -- the name of the game
11 for IRS is collect. And when you don't file, you put a little road block in the way and so they have
12 had to devise this procedure, absent a proper statute as a basis, to get the assessment so that they
13 can collect. When I discovered the truth about this and I am trying to hold back here and be
14 professional, but I am angry. I was angry when this occurred to me. And this makes me more angry
15 than probably anything, because it affects so many people.

16 **MR. SCHULZ:** So, with so many people being affected and their unalienable rights being
17 violated, not one, not two, not three -- four, five, six, seven, almost -- we have talked about here the
18 First Amendment. We talked about the Fourth Amendment, the Fifth Amendment. We have talked
19 about the Sixth and Seventh Amendments. It's as though the Constitution has become a dead letter.
20 It's as though the government is just doing whatever it wants to do in this regard, when it comes to
21 the income tax.

22 **MR. SCHIFF:** Let me make it real simple, because I had a lot of experience putting on
23 seminars. Let me show you how simple it is. This is the fault of the school system; they don't teach

1 civics. But I want everybody to picture this for a moment. I wish I had my Constitution that I
2 published. If Cindy has it, she can give it to me. All the government's powers, Article 1, Section 8,
3 Congress shall have the power to regulate Congress, coin money -- okay, is there anything in the
4 Constitution that authorizes the government to compel Americans to send a sworn statement to
5 Washington every year telling the government whether they are working or not, whether they are
6 married or not, how much money they have in the bank, how much money they have in the stock
7 market, who their dentist is, who their doctor is. Is there any provision in the Constitution that
8 authorizes the government to demand that Americans send them such a document every year? The
9 answer is no. How can they require you to put it on a 1040? Where's the government's authority to
10 force me to tell them whether I am working or not?

11 **MR. HANSEN:** The moral equivalent is passing a law to force people to strip naked in
12 front of the government.

13 **MR. SCHIFF:** The amazing thing is, but the laws don't do that. Frankly, the laws were
14 mandatory up until 1954, from 1913 to 1954 under the old code, the tax was being collected
15 illegally, because the Supreme Court had ruled after the Sixteenth Amendment was passed, that
16 that authorized the government to impose an income tax as an excise, but it wasn't imposed as an
17 excise. They also ruled that the word income meant a corporate profit. So all during the '20s and
18 '30s and '40s the income tax was being collected in violation of a number of Supreme Court
19 decisions. So in 1954, for some reason Congress got pangs of conscience; they decided to bring the
20 law into line with what the Supreme Court said. In order to do that, they had to take out all the
21 mandatory provisions. They changed the meaning of income and they said we are going to use
22 income in the constitutional sense. Well, nobody would know what that means except it means a
23 profit. And also they took out all provisions to pay the tax. They did something else; they took out

1 all references to the IRS. In the 39th code they continually referenced the commissioner can do
2 this, the commissioner can do that. They took out references to the commissioner, they put in the
3 secretary, meaning the Secretary of the Treasury. They made sure he never delegated any authority
4 to anybody with respect to income tax. So that means the law is fine; there's nothing wrong with
5 the law. The reason the law is voluntary is because the Constitution prohibits the federal
6 government from collecting taxes in the manner they are doing. So what they have done is they've
7 taken the Constitution and tossed it the ash can.

8 **MR. SCHULZ:** That's what I am referring to.

9 **MR. SCHIFF:** Exactly right.

10 **MR. SCHULZ:** You know, I am reminded that this is true; the current state Constitution
11 for the state of New Hampshire says the people have the right of revolution. They still have the
12 right of revolution. If you look at that fundamental -- look, I don't mean to carry this too far; all I
13 am saying is, and the principle is clearly laid out in the Declaration of Independence. Maybe we
14 need a people power. We have the ultimate power and what is it going to take when you're up
15 against a government that basically is bunch of thugs, that are mugging people and denying them
16 their fundamental rights; and even when they don't file because they know what their rights are; the
17 government is somehow hooking them and pulling them in and doing whatever it takes, even if
18 they are violating, as you say MR. Turner, the statutes and their codes, their own internal
19 regulations and the like. Maybe it's time for the American people to put a collective foot down, I
20 mean a big thud, a big collective foot needs to be put down. It's very, very difficult for individuals
21 and small groups of people to stand up to the power that's been made against them in this regard.
22 Maybe it's time for people to put a collective foot down in some way to demonstrate people power.
23 That's a rhetorical question.

1 **MR. SCHIFF:** Bob, let me say this; the way you do that, and this is so complicated, the
2 average person is -- I have been at this for 25 years, and this year I learned something I never knew
3 before like the pocket commissions. Fortunately we have been able to put a lot of this information
4 where people can understand it. The first thing people have to know is that they are not breaking
5 the law when they don't pay income taxes. They are not being unpatriotic; they are being more
6 patriotic. Any idiot can do what the government tells them to do. It doesn't take any brains or
7 courage or anything else. It takes a little courage to stand up to a tyrannical government. We have a
8 Constitution which was designed to protect your certain rights. As a matter of fact, the Constitution
9 was written to protect you against what is known as inquisitorial government power. The
10 government can't force you to give information that they can use against you. They can't look at
11 your books and records. They can't seize your property without due process of law. It was designed
12 to protect you from government. And now they have taken this and they've thrown it in the ash can.
13 Well, there is a way you can assert yourself. There is a way, there's procedures you can learn where
14 you can throw roadblocks in front of the government. There is enough law that you can force the
15 IRS to say show me the law that allows you what to do. You have to learn it. You have to learn
16 what to do. Simply knowing the law is not enough, because you're dealing with the Federal Mafia.

17 **MR. TURNER:** Excuse me, MR. Schiff. Even though I agree with what you said; people
18 are busy make a living, raising a family, paying for college. They want to know this stuff. They
19 want the government to do it right.

20 **MR. SCHIFF:** You're a hundred percent right. And they'll pay the penalty; they'll pay 30
21 percent, 40 percent and they'll worry about the IRS. The amazing thing are people who follow my
22 procedures have a lot more money to spend and don't worry about the IRS because we know they
23 have no power. I have people who were bordering on committing suicide who once they learned

1 this information were able to roll back the IRS.

2 **MR. SCHULZ:** Personally I have heard enough to sort of bring this a close, but let's
3 complete the line of inquiry that we are currently on the due process violations and then a short line
4 of inquiry on the Courts Are Closed and possibly on substitute returns. But let's --

5 **MR. TURNER:** Possibly? Possibly?

6 **MR. SCHULZ:** I will speak with you. It's already 5:18, and let's complete this line of
7 inquiry. Is it true that this dummy return is not signed, this so-called dummy return is not signed?

8 **MR. TURNER:** That's correct, never.

9 **MR. SCHULZ:** The law requires it be signed by the secretary, but it's never signed?

10 **MR. TURNER:** Well, they cannot sign a 1040, but the law requires 6020(b) returns are
11 supposed to be signed.

12 **MR. SCHULZ:** Is it true that a dummy return is physically created on an IRS Form 1040?

13 **MR. TURNER:** That's correct.

14 **MR. SCHULZ:** Is it true that Congress has not authorized has not Internal Revenue Code
15 or treasury regulations that authorizes the creation of dummy returns? Question 274.

16 **MR. TURNER:** I could never find any such thing.

17 **MR. SCHIFF:** That's correct. There is no provision for a dummy return at all.

18 **MR. SCHULZ:**

19 **MR. CHAPPELL?**

20 **MR. CHAPPELL:** I agree. No provision for a dummy return.

21 **MR. SCHULZ:** And yet they're routinely issued; is that correct?

22 **MR. TURNER:** Routinely.

23 **MR. SCHULZ:** Is it true that if an individual required to make a return under Section

1 6012(a) files a return that does not contain the financial information necessary to allow the IRS to
2 compute gross income, adjusted gross income and/or taxable income, the IRS calls such a return a
3 zero return?

4 **MR. SCHIFF:** Yes, they can; they can call it frivolous if they want. Yeah, they do that.
5 There is no authority for them to do it, but they can do it.

6 **MR. SCHULZ:** MR. Turner?

7 **MR. TURNER:** I don't know if they call it a zero return, but I know they use that process
8 described there to arrive at an assessment of where there's dollars shown owed on one form but the
9 transaction code on the computer shows an assessment for zero.

10 **MR. SCHULZ:** Do you have Exhibit 169, MR. Bodine? Take a look at the highlighted
11 part. I don't know; are there others highlighted in 169?

12 **MR. TURNER:** From what I have read. Unless there is other things there, if you want to
13 scroll down just a little more. I didn't see anything.

14 **MR. SCHULZ:** Just go down to the end of the case.

15 **MR. TURNER:** I have read the exhibit. I did not see anything where the IRS, as the
16 question reads, was on record calling this a zero return, but there was verbiage in there that the
17 return had a zero.

18 **MR. SCHIFF:** This was not a zero return the way we file it. When we file a zero return, we
19 show no income. What he did was zeroed out his income by using deductions, which in my view
20 are legitimate.

21 **MR. SCHULZ:** So, you're familiar with the case?

22 **MR. SCHIFF:** I wasn't familiar, but just reading it. He deducted the cost of his labor,
23 which he should have a right to do.

1 **MR. SCHULZ:** Is it true that if an individual required to make a return under Section
2 6012(a) files a return that does not contain the financial information necessary to allow the IRS to
3 compute gross income, adjusted gross income and/or taxable income, the IRS takes the position
4 that no return has been filed?

5 **MR. TURNER:** Yes, that's true.

6 **MR. SCHULZ:** Is it true that if an individual required to make a return under Section
7 6012(a) files a return that does not contain financial information necessary to allow the IRS to
8 compute gross income, adjusted gross income and/or taxable income, the IRS takes the position
9 that the return is frivolous and imposes a \$500 penalty?

10 **MR. TURNER:** Many times they do.

11 **MR. SCHULZ:** Something comes to mind. Did I not read within the last week or two that
12 there is a bill before Congress which would raise the fine for frivolous penalties from \$500 to
13 \$3,000?

14 **MR. TURNER:** I don't recall the amount but they are trying to raise it.

15 **MR. SCHIFF:** I will simply say this; when they do impose a fine, we don't pay them. We
16 go down to the IRS office and say let me see the document, the underlying document that -- there is
17 a statute that says if a fine is imposed, there has to be a document signed by the person imposing it,
18 a supervisor. They don't have the document. So we go down -- Yeah, I want to pay it. Let me see
19 the document imposing the penalty. They don't have such a document because no IRS agent is
20 authorized to impose a penalty.

21 **MR. SCHULZ:** MR. Schiff?

22 **MR. SCHIFF:** Yes.

23 **MR. SCHULZ:** If Congress is considering passing a bill that is going to raise the penalty

1 for what they call a frivolous return, a zero return, from \$500 to \$3,000, or more, it's safe to assume
2 that there are going to be more people fearful of standing on their statutory constitutional rights.

3 **MR. SCHIFF:** Well, some of these people will file nothing, then it's okay. So you file
4 nothing. If you don't want -- we file a zero return because a lot of us, we get refunds by filing a zero
5 return. Incidentally, the zero return that I file, there's an attachment; we cite no less than 30 legal
6 references; we cite 10 Supreme Court cases in which the Supreme Court has ruled income is
7 corporate profit. We cite 10 statutes, about 5 regulations; a document that is based on 30 legal
8 references is not frivolous. It could be wrong, but frivolous means off the wall without any legal
9 basis. So, on my zero return, where we put an attachment is not frivolous.

10 **MR. SCHULZ:** In general though, MR. Schiff, those people who are not familiar with your
11 approach in this regard, just people who are mindful of their Fifth Amendment rights, don't want to
12 sign a statement that says under penalty of perjury I am required to file this when they know they
13 are not required to and so forth; just a \$3,000 fine is going to cause many more people to be fearful
14 of standing up, less willing to stand on their constitutional and statutory rights.

15 **MR. SCHIFF:** Bob, you're right; but how are they going to collect it? Are they going to
16 use notices of levy? All they got to do is ask the agent, let me see your pocket commission. We got
17 other fallback positions. Incidentally, if a person is fearful, he doesn't have to file. If they ask him
18 why he doesn't file, he says I just never received a notice from the secretary pursuant to Section
19 6001. Because Section 6001 says you don't have to file unless you're served with a notice. There is
20 all kinds of things that you can do. Nobody is telling anybody to take a gun and risk life and limb
21 opposing this tyranny, but it takes some little risk.

22 **MR. SCHULZ:** But increasing penalties is clearly an approach that a government can
23 follow to squash dissent, squash those who are questioning their authority, and that sort of thing.

1 It's a rhetorical question. Let's move on. Is it true that if an individual required to make a return
2 under Section 6012(a) files a return that does not contain a signature made under penalty of
3 perjury, the IRS takes the position that no return has been filed?

4 **MR. TURNER:** Yes; we already answered that one.

5 **MR. SCHULZ:** I'm sorry.

6 **MR. HANSEN:** So that means that technically there is no assessment, either; and if there is
7 no assessment, they can't

8 **MR. TURNER:** No, that's not what it means. It just means that they don't accept that return
9 without a signature.

10 **MR. SCHULZ:** Is it true that if an individual required to make a return under Section
11 6012(a) files a return that does not contain a signature under penalties of perjury, the IRS takes the
12 position that the return is frivolous and imposes a \$500 penalty?

13 **MR. TURNER:** Many times.

14 **MR. SCHIFF:** Can I just interject here? If you want to negate your signature without
15 crossing it out, anybody who files a traditional return, the least they should do put an attachment
16 on their traditional return stating this return is not being filed voluntarily. I am filing it because I
17 believe that if I didn't file it, I may be charged with willful failure to file a tax evasion. Therefore,
18 the information is being compelled. Now, if you did that, technically they couldn't charge you with
19 tax evasion; they couldn't use the tax return against you. Presumably if Leona Helmsley had did
20 that, and Pete Rose, they never would have gone to jail for tax evasion because in both of their
21 cases they used their tax return against them on the assumption that the returns were filed
22 voluntarily. So, the very least you should do on a traditional return is make it absolutely clear that
23 you are not filing the return voluntarily.

1 **MR. HANSEN:** But you need to be careful when you do that, you put an annotation on the
2 return saying this return is invalid without the attachment, because the IRS likes to detach.

3 **MR. SCHIFF:** Yeah, you put 1 of 3, 2 of 3, 3 of 3, to make sure that they can't pull it off.
4 Right.

5 **MR. SCHULZ:** Is it true than an IMF record bearing the code SFR 150 indicates that a
6 fully paid IRS Form 1040A was filed?

7 **MR. TURNER:** Yes, it is true, and this, the meaning of this really requires a little bit of
8 explanation and I know the time is closing in on us here, but the evidence that you see on the
9 screen is supporting my answer in the affirmative here. But what it means is, you recall earlier in
10 this session where we admitted that the IRS uses the Form 1040 to create the dummy return. Well,
11 the IRS has other forms, other types of 1040s. They have the 1040A and the 1040EZ. We don't
12 have the liberty to go into great deal here at this time on this, but the 1040A is involved in this, in
13 the master file. And there is specific reasons why the 1040A is used. You see, what they are saying
14 here they got -- you can literally order a copy of the 1040 return that the dummy return is made on,
15 but if you, from this transcript here, this piece of evidence right here, your master file transcript you
16 would find out the way IRS treated it was that it was a 1040A, not a 1040. And that's more
17 evidence of computer fraud. There's a significant reason why that is that way.

18 **MR. SCHULZ:** Is Burr Deitz outside? Take a break now, return and do the final two lines
19 of inquiry, the substitute returns and the courts are closed. Then we will have closing remarks;
20 some comments by Sherry Jackson, and then we will talk briefly about what's next and bring it to a
21 close. So we will take a 10-minute break.(After a recess, the following took place:)

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