

Dear We The People

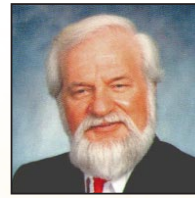
Q: DO YOU HAVE TO FILE A FEDERAL TAX RETURN OR PAY AN INCOME TAX?



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"The Law That
Never Was"



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"Taxable Income"



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A: THESE EXPERTS SAY "NO"!

Read the Facts and Judge the Truth for Yourself:

- The original Constitution prohibits the Congress from laying a DIRECT (income) tax on the People unless it is in PROPORTION to the states (the last census).
 - Our income tax conflicts with the original constitution: it is a DIRECT tax (the Supreme Court and numerous federal courts have declared it so) and it has not been laid in PROPORTION to the States.
 - The IRS (and the New York Times) say our income tax, although DIRECT and UNAPPORTIONED, is constitutional because the 16th Amendment did away with the original requirement that all DIRECT taxes must be in PROPORTION to the states.
 - However, Bill Benson's research shows, conclusively, that the 16th (income tax) amendment is a FRAUD — it was fraudulently ratified.
 - When Mr. Benson took his charge of FRAUD to federal court, the court declared that it was a political question for Congress to decide. (Editor's note: Since when is fraud a political question?)
 - The Congressional Research Service immediately declared Benson's charge of FRAUD to be a question for the courts.
 - Even if the original constitution, or the constitution as amended by the 16th Amendment, authorized Congress to lay a DIRECT tax on all U.S. citizens, without APPORTIONMENT, Congress has not done so — Congress has vet to pass a law that requires most Americans to file a tax return or to pay income tax.
 - The current income tax law does NOT apply to most Americans.
- Read More Detailed Evidence at Our Website: www.givemeliberty.org**

The Constitutional Argument

Bill Benson's research report, "The Law That Never Was" is based on thousands of court-certified documents from state and federal archives. It proves conclusively the 16th (income tax) Amendment to the Constitution in 1913 was fraudulently ratified.

His report says, in effect, that every individual in America can legally ignore the requirements of the Internal Revenue Code because it is well settled in American Jurisprudence that any law which is conflict with the Constitution is abrogated, i.e., it is VOID and can be IGNORED by the People.

Mr. Benson, a former Criminal Investigator for the Illinois Department of Revenue, has NOT filed federal or state tax returns or paid any federal or state tax on his income since 1986.

The Statutory Argument

Unrefuted research by Larkin Rose and John Kotmair say, in effect, that EVEN IF the Constitution authorized an income tax, the current income tax laws do NOT APPLY AND DO NOT REQUIRE most U.S. citizens to pay any taxes on their income.

Mr. Rose has not filed federal or state income tax returns or paid income taxes since 1996. Mr. Kotmair has not filed federal or state income tax returns or paid income taxes since 1973.

Q: DOES THE CONSTITUTION PROHIBIT A NON-APPORTIONED DIRECT TAX ON THE PEOPLE? A: YES! HERE IS WHAT THE ORIGINAL CONSTITUTION SAYS: "No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken." See Article I, Section 9, Clause 4.

Q: IS THE INDIVIDUAL INCOME TAX A DIRECT TAX? A: YES, ACCORDING TO THE COURTS.

The U.S. Supreme Court Has Declared the Tax to be a Direct Tax: "A proper regard for its [the 16th Amendment's] genesis, as well as its very clear language, requires also that this amendment shall not be extended by loose construction, so as to repeal or modify, except as applied to income, those provisions of the Constitution that require an apportionment according to population for direct taxes upon property, real and personal." See "<http://caselaw.findlaw.com/scripts/getcase.pl?navby=case&court=US&vol=252&page=189>" See Eisner v. Macomber, (1920), 252 U.S. 189, 206, 40 S.Ct. 189. *Editor's note: Wages & salaries are property. See Sims v. U.S., (1959), 359 U.S. 108.*

The Federal Appeals Courts Have Declared The Income Tax To Be A Direct Tax.

- "The sixteenth amendment merely eliminates the requirement that the direct income tax be apportioned among the states...The sixteenth amendment was enacted for the express purpose of providing for a direct income tax." See Parker v. Commissioner, 724 F.2d 469, 471 (5th Cir. 1984).
- The court held that an argument that the income tax was an excise was frivolous on its face. The court declared: "The power thus long predates the Sixteenth Amendment, which did no more than remove the apportionment requirement". See Coleman v. Commissioner, 791 F.2d 68, 70 (7th Cir. 1986).
- "The cases cited by Francisco clearly establish that the income tax is a direct tax....". See United States v. Francisco, 614 F.2d 617, 619 (8th Cir. 1980).
- "The Sixteenth Amendment removed any need to apportion income taxes among the states that otherwise would have been required by Article I, Section 9, clause 4." See United States v. Lawson, 670 F.2d 923, 927 (10th Cir. 1982).

State Courts Have Declared The Income Tax To Be A Direct Tax.

Editor's note: For a full discussion see: "Long after Brushaber vs. U.P. Railroad and Stanton vs. Baltic Mining, the Courts Have Declared The Income Tax to be a Direct Tax." This article can be found on our web site. Special thanks to constitutional attorney Larry Becraft upon whose research our article is based.

Q: IS THE INDIVIDUAL INCOME TAX IMPOSED "IN PROPORTION TO THE CENSUS." A: NO! IT IS NOT "IN PROPORTION TO THE CENSUS."

The individual income tax is not tied to the population, state-by-state. Notwithstanding the constitutional prohibition found in Article I, Section 9, Clause 4, the income tax it is not apportioned among the States. Congress does not require each state to tax their citizens to collect the money the federal government says it needs, over and above what it collects under the taxing authority granted to it under Article I, Section 8, Clause 1 of the Constitution (indirect taxes: excise, tariffs, duties and imposts)

Q: HOW CAN THERE BE A DIRECT, UNAPPORTIONED INDIVIDUAL INCOME TAX IN AMERICA IF THE ORIGINAL CONSTITUTION PROHIBITS IT? A: THE GOVERNMENT RELIES UPON THE VALIDITY OF THE 16TH AMENDMENT TO THE CONSTITUTION AS ITS AUTHORITY TO IMPOSE THE CURRENT, DIRECT, UNAPPORTIONED, INDIVIDUAL INCOME TAX.

The 16th Amendment reads: "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

The IRS says it is the 16th Amendment that gives it the authority to impose the income tax directly on the working people of America. The IRS is on record as saying: "The sixteenth amendment to the Constitution states that citizens are required to file tax returns and pay taxes." IRS Publication No. 1918 (July, 96), Cat. No. 22524B.

No less an authority than the New York Times says the 16th Amendment is the government's authority to impose the income tax directly on the working people of America. The New York Times says: "Congress's right to levy taxes on the income of individuals and corporations was contested throughout the 19th century, but that authority was written into the Constitution with the passage of the 16th Amendment in 1913." *The New York Times Almanac, 2001, The World's Most Comprehensive and Authoritative Almanac*, page 161.

While refusing to address the question of its fraudulent adoption, the federal courts have

said the 16th Amendment is the government's authority to impose the income tax directly on the working people of America. For instance, Judge Paul G. Hatfield (United States District Court For The District of Montana) wrote: "The income tax laws of the United States of America are constitutional, having been validly enacted under authority of the Sixteenth Amendment to the United States Constitution." See United States of America vs. Jerome David Pederson, (1985) Case No. CR-84-57-GF. In United States v. Lawson the court declared: "The Sixteenth Amendment removed any need to apportion income taxes among the states that otherwise would have been required by Article I, Section 9, clause 4." See United States v. Lawson, 670 F.2d 923, 927 (10th Cir. 1982).

HOWEVER, BILL BENSON'S RESEARCH REPORT DOCUMENTS THAT THE 16TH AMENDMENT WAS NOT RATIFIED BY THE STATES AND IS A FRAUD.

Bill Benson's findings, published in "The Law That Never Was," make a compelling case that the 16th Amendment (the "income tax amendment") was not legally ratified and that Secretary of State Philander Knox was not merely in error, but committed fraud when he declared it ratified in February 1913. For a discussion of Philander Knox and his motives for fraudulently declaring the 16th Amendment ratified, see: "Who Was Philander Knox? Is It Credible That He Would Have Committed Fraud?" which can be found on our web site.

PROOF THAT STATES DID NOT RATIFY THE 16TH AMENDMENT:

In 1909, Congress passed the proposed 16th Amendment. It was sent to the states for ratification by the state legislatures. There were 48 states. Three-fourths, or 36, of them were required to give their approval in order for it to be ratified.

Knox declared the 16th amendment ratified on February 25, 1913, just a few days before leaving office. He counted 38 states as having approved it.

- Kentucky:** The Kentucky legislature REJECTED the amendment 22-9, but Knox counted it as having PASSED 22-9.
- Oklahoma:** Oklahoma voted FOR the amendment but changed the wording to mean the OPPOSITE of the proposed amendment — even though a memo from chief legal counsel Reuben Clark warned that states were NOT allowed to change the proposed amendment.
- Tennessee:** Tennessee violated its own state constitution when they failed to delay the amendment vote until a new state legislature was elected. The obvious reason for this state constitutional clause was to insure that the People of Tennessee would have direct political input on the federal constitutional amendment process. Tennessee also violated their own state constitution by failing to read the resolution on three different days as prescribed by Article II, Section 18. These state constitutional violations make their approval of the amendment null and void.
- Texas and Louisiana:** Texas and Louisiana violated provisions in their state constitutions prohibiting the legislatures from empowering the federal government with any additional taxing authority.

Now the number is down to 33. Twelve other states violated provisions in their State Constitutions, bringing the number down to 21.

Further evidence in Mr. Benson's research report make the list dwindle down much more, but with the number down to 21, fifteen fewer than required, this is a suitable place to rest for the purposes of this article.

For a more detailed state-by-state account, go to: "How Some States Failed To Ratify The Sixteenth Amendment," which is located on our web site. Special thanks to Bill Benson, upon whose research our article is based.

THE CONGRESS AND THE COURTS HAVE PLAYED "GOVERNMENTAL PING-PONG" WITH MR. BENSON'S CONSTITUTIONAL CHALLENGE TO THE 16TH AMENDMENT.

In 1985, Mr. Benson asked a federal court to declare the 16th Amendment to be null and void because it was fraudulently ratified. The court, instead, ruled the question to be a political question for the Congress to decide. It said, "[Defendant] Stahl's claim that ratification of the 16th Amendment was fraudulently certified constitutes a political question because we could not undertake independent resolution of this issue without expressing lack of respect due coordinate branches of government...." See U.S. v Stahl (1986), 792 F.2d 1438.

Mr. Benson then personally delivered a copy of his voluminous research report to each and every member of Congress. In response, the Congressional Research Service immediately issued a report, which declared that the CRS was not going to address the factual allegations of Mr. Benson's report and that the question of the fraudulent adoption of the 16th Amendment was a question for the Courts. For a copy of the CRS report, which was written by a CRS attorney (Rippy), go to our web site.

Mr. Benson has concluded that the 16th Amendment can be ignored, that Congress's power to lay a DIRECT (income) tax on the People is, therefore, limited by the original Constitution (Article I, Section 9, Clause 4), and that because the income tax has not been laid in proportion to the states, he has a fundamental right to ignore the income tax laws. He has not filed an income tax return or paid income tax since 1986.

REGARDLESS OF THE CONSTITUTIONAL INFIRMITIES OF THE CURRENT INCOME TAX LAW, THE TAX LAW AS WRITTEN DOES NOT APPLY TO MOST AMERICANS LIVING AND WORKING IN THE UNITED STATES.

- Some Evidence:
- Sections 1461 and 7701 of the Internal Revenue Code (the "IRC") establish that the only person made liable to withhold and pay the income tax is a withholding agent, who is any person required to withhold under sections 1441-1443, which pertain ONLY to nonresident aliens and foreign entities.
 - Look in the IRC index under "income tax" to cross-reference with "citizen" or "citizenship." There are only two entries: one for citizens departing the U.S. and the other for citizens living abroad. But if one cross-references "income tax" with "aliens," there are several PAGES of entries, most of them under subcategory "nonresident alien" where we find all the familiar terms, such as "deductions," "exemptions," "gross income," and "withholding." Careless indexing? Ask your tax professional.
 - Form 1040 has never been authorized by the Office of Management and Budget ("OMB") to be used under Section 1 of the IRC. The only form ever approved for use under Section 1 is Form 2555, titled "Foreign Earned Income."
 - A statement of citizenship, in duplicate, from a worker has always served to relieve an employer of duty to withhold income taxes from ANY worker's pay, under Section 1.1441-5 and Publication #515 (wording was altered in 1999 to disguise the provision).
 - The Internal Revenue Manual instructs the employees of the IRS that the Criminal Investigation Division is under the direction of the international branch of the IRS and is only authorized to enforce criminal statutes applicable to taxes for U.S. citizens residing in foreign countries and nonresident aliens required to file federal income tax.
 - IRS revenue officers are authorized by law to conduct only civil enforcement under subtitle E (alcohol, tobacco, and firearms), not under subtitle A (income taxes). Among assertions by former IRS agents is that virtually everything a revenue officer does is outside the law.
 - Code section 6020(b), invoked by the IRS when it assesses income tax on individuals who have not filed a 1040, does not authorize them to assess income tax on individuals. Delegation Orders from the Commissioner to IRS employees authorizing them to execute returns for persons required to file, but who didn't, do not include Forms 1040 or 2555 on the list of authorized returns.
 - Regulations implementing the statutes governing tax liens and levies are under the jurisdiction of the Bureau of Alcohol, Tobacco, and Firearms, not the IRS.
 - Social Security officials have confirmed that there is no law that requires a citizen to get a social security number, for an employer to get an employer identification number, or for either of them to participate in social security and pay employment taxes under subtitle C, unless they want to participate in the social security program. No law requires an employ-

er to insist on getting a W-4 from a worker, nor for a worker to fill it out. Without a social security number, a worker can have no taxable income, according to the Social Security Administration. On 2/20/01, in an EEOC case in the Norfolk area, a worker prevailed in a Title VII Civil Rights action after being fired for not providing a social security number, when the employer only needed to notify the IRS that it had requested one. You can see a copy of the letter from the SSA on our web site.

10. IRC Section 3402 imposes withholding only upon "wages" as defined exclusively at Sections 3401(a) and 3401(a)(8)(A), which reveals that remuneration paid to U.S. citizens living and working in the U.S. is excepted from the definition of "wages" that are subject to withholding under Section 3402. The only way it can be "wages" is under IRC Section 911, i.e., remuneration in U.S. possessions.

11. IRC Section 3403 indemnifies and protects employers from liability for the withheld remuneration only if it is "wages" under Section 3401(a).

12. Senator Inouye, in a letter responding to an inquiry to a constituent who was a tax consultant, stated, "Based on research performed by the Congressional Research Service, there is no provision which specifically and unequivocally requires an individual to pay income taxes." You can see a copy of this letter and comments on our website.

13. The definition of "gross income," found in IRC 61 and 26 CFR 1.61. CFR 1.61-1(a) defines gross income as "all income from whatever source derived, unless excluded by law." IRC 61 defines gross income as "all income from whatever source derived, including (but not limited to) the following items: (1) Compensation for services, including fees, commissions, fringe benefits, and similar items; (2) Gross income derived from business; (3) Gains derived from dealings in property; (4) Interest; (5) Rents; (6) Royalties; (7) Dividends; (8) Alimony... (15) Income from an interest in an estate or trust. Tax researchers have discovered that "items" of income in IRC 61 are not the same as "sources" of income. CFR 1.861-1 says: "Section 861 et seq... and the regulations thereunder, determine the sources of income for purposes of the income tax." The specific sources are listed in CFR 1.861-8(f)(1). They are: (1) over-all limitation to foreign tax credit; (2) international and foreign sales corporations; (3) nonresident alien individuals and foreign corporations engaged in trade or business within the U.S.; (4) foreign base company income; and (5) a list of fifteen other operative sections — all foreign. All this lead to the conclusion that the term "gross income" does not apply to the income of most citizens but to the incomes of nonresident aliens and U.S. citizens earning money abroad, a conclusion no longer very surprising after considering all the other evidence presented above. *Editor's Note: This "861 Sources" argument is a very potent, but complex legal argument. For a FREE detailed discussion of this argument, see our website article, "GROSS INCOME AND SECTION 861: TAX RESEARCHERS' PERSPECTIVE AND EXPLANATION IN THE CONTEXT OF OTHER STATUTES AND REGULATIONS." Special thanks to Larken Rose and John Kotmair.*

WHAT IF?

What if individuals were to stop filing and paying the income tax and employers were to stop withholding the tax from the paychecks of their employees and there was no new federal tax to take the place of the individual income tax? Would we be able to "fix the bridges and maintain a strong national defense"? Would we be able to avoid "chaos"? Would we be a stronger nation? Is a mechanism in place that would allow a peaceful and smooth transition from a society with an individual income tax to a society without one?

The answer to each and every one of these questions is a resounding "YES." Here we are in the year 2001, and the federal government is preparing to adopt the federal budget for the next fiscal year. Let's assume that the Congress will come to the conclusion that it wants two trillion dollars in tax revenue next year. Let's also assume that Congress expects one trillion dollars to come from the taxes already in place and authorized by Article I, Section 8 of the Constitution (excise taxes, tariffs, duties and imposts), and that those tax revenues were sufficient (as is the case today) to maintain a strong defense and to pay for the other federal programs needed and authorized by the enumerated powers found in Article I. That leaves one trillion dollars to come from someplace else to pay for everything else Congress wants to do. Assuming Congress decides not to increase the Article I, Section 8 taxes, Congress would have to get the other trillion dollars by taxing the People under the authority granted by Article I, Section 9 of the Constitution — i.e. by laying a direct tax on the people, a tax that would have to be PROPORTIONED AMONG THE STATES. This means Congress would have to pass a bill and the President would have to sign the bill into law, requiring the states to come up with the money the Congress wanted. To be constitutional, the bill would have to proportion the one trillion dollars among the 50 states, based on the population figures of the last census.

This is the mechanism that has been in place since 1787, and which could very easily work today.

Of course, with this approach to funding the federal government, there would be a dramatic shift in power away from the federal government to the States and to the People.

It can be safely assumed that if given the choice, the States will use their power to influence the federal government not to adopt the law requiring the states to come up with the trillion dollars, deciding, instead, that they, the states don't need the middle man — i.e., that they will fund the development of communities of their states, and they will fund the education of the children of their states, without also funding the huge bureaucracies in DC.

APRIL 9TH: IRS WALK-AROUND. BE THERE

What must a free people do when faced with a government that has stepped outside the Law and the Constitution?

At 10 a.m. on Monday, April 9th, we will hold a peaceful "walk-around" of the IRS building in Washington, D.C. Your participation is required to send the message that the People will no longer tolerate the illegal operations of the IRS.

Please see our website at www.givemeliberty.org for more information on times, agenda, hotel, etc.

Freedom is NOT a spectator sport. These ads cost tens of thousands of dollars. If you want to see more of these PLEASE HELP. If every concerned citizen could contribute just a few dollars we can reach millions and end this tyranny.

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Friday, March 23, 2001 • 6 AM - 6 PM Eastern Time

One listen will change your life.

Twelve hours of the facts...twelve hours of the truth about the income tax.

Bob Schulz of We The People and John Kotmair of Save-A-Patriot Fellowship as well as Ex-IRS agents, business owners and every-day Americans share why April fifteenth is likely meaningless to you.

Listen to "<http://www.LibertyWorksRadio.com/>" or call toll-free (888) 999-1787 to have your question[s] answered. You won't believe what you will hear.

This message is part of **PROJECT TOTO**, a plan to educate millions of citizens (along with accountants, tax attorneys, legislators, judges, IRS employees, and prospective jurors) about the true nature of the income tax laws, to expose operations of the IRS that are unauthorized by law, and to put an end to their illegal collection of taxes from people who do not owe them.

Jefferson said it best, "When the government fears the people, you have liberty. When the people fear the government, you have tyranny."

Sponsored by We The People Foundation For Constitutional Education, Inc., 2458 Ridge Rd., Queensbury, NY 12804, www.givemeliberty.org mailto:acta@capital.net (518) 656-3578 Fax (518)656-9724