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The Federal Income Tax, Another Fraud Perpetrated Against Americans

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Americans are in the middle of tax season; attempting to figure out how much they owe and then file the appropriate paperwork by April 15th. In recent history, this ritual has occurred at the same time each and every year while the Internal Revenue Service (IRS) issues threats and warnings, including an updated version of their list of the *Dirty Dozen Tax Scams*. This was not always the plight of Americans.

A federal income tax was not contemplated by the Founders and none existed while they were alive. The Founders understood an income tax or a tax on a person's labor was tantamount to slavery, while a tax on consumption or a sales tax was more appropriate for a free society. As explained by Thomas Jefferson, ". . . a wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circles of our felicities." As a result of this understanding, over the first 137 years of existence, Americans were not subjected to a permanent income tax. Such a tax was viewed as a slave tax.

After the passage of the 16th Amendment and the first permanent income tax, which had a top rate of 7% on incomes above \$500,000 (\$10-million in 2007 dollars), the supporters argued that it would only impact the wealthy and never rise to 10% because the people would revolt. As with all government programs, the proponents were wrong: The top marginal tax rate rose to 94% fluctuating up and down, depending upon the political whims of the power-elites that controlled government at any given time; today, the top marginal rate is 39.6% on taxable income starting around \$406,750. Unlike back in 1913 when only extremely wealthy individuals incurred a top tax of 7% on incomes exceeding \$10-million in today's dollars, the average hard-working individual currently pays more than twice that rate applied to incomes starting above \$36,900. As Margaret Thatcher once said, the problem with socialism is, that eventually, you run out of other people's money. Instead of the wealthy paying the price for American's slave tax, it is the middle-class that is being devastated by it.

The IRS, the U.S. version of the *Gestapo*, terrorizes all Americans. As Denis Kleinfeld recently wrote, “Letters from the IRS strike dread into the heart of even the most powerful people, as well as the least powerful. The tax laws govern every aspect of our lives and behavior—from the moment we wake up until we finally go to sleep. Where we live, how we dress, how we earn a living, whether we get married and have children, what we eat—every aspect of our lives are impacted and thereby dictated by the income tax code.”

The IRS, through the use of its *Gestapo Tactics*, promotes this fear. For those of you who have experienced an audit of your personal and business tax returns, that fear is most likely well-founded. As part of their fear-campaign during this time each year, the IRS releases the *Dirty Dozen Tax Scams*. Always considered a notorious tax scam are the “Frivolous Arguments,” which include: The filing of Form 1040 violates the 5th Amendment right against self-incrimination; and, the 4th Amendment right to privacy with respect to personal papers and effects. According to the IRS, these arguments are false and no one has a right to disobey the law.

The IRS is wrong when they say that a Taxpayer’s 4th and 5th Amendment rights represent a frivolous argument when it comes to filing tax returns and providing documentation or *papers and effects* to prove income and deductions. Supreme Court Justice Bradley, in an opinion issued in 1886, explained why,

. . . any compulsory discovery by extorting the party’s oath [e.g., signing a tax return under penalties of perjury], or compelling the production of his private books and papers [e.g., documentation required by IRS Agents when audited] to convict him of crime, or to forfeit his property [e.g., increase taxes, interest and penalties], is contrary to the principles of a free government. It is abhorrent to the instincts of an Englishman; it is abhorrent to the instincts of an American. It may suit the purposes of despotic power; but it cannot abide the pure atmosphere of political liberty and personal freedom.

Justice Bradley ruled the tax law null and void and stated that it was repugnant to the Constitution because it violated the 4th and 5th Amendments. Subsequent to Justice Bradley’s ruling, the 16th Amendment was passed, giving Congress the right to lay and collect taxes on incomes from whatever source derived. However, it did not amend, modify, or replace any other provisions of the Constitution, in particular, the 4th and 5th Amendments. Furthermore, it is not superior to any other amendments. Therefore, Justice Bradley’s decision is still good law, which has been ignored by the IRS; and, has not been properly litigated in recent history.

The administration and collection of the income tax is unconstitutional. However, do not stop filing your tax returns and paying your taxes; the IRS will destroy you if you do not follow the law as they understand it to be.

However, if selected for audit, pick up a copy of my LL.M. Thesis, *The U.S. Individual Income Tax is Incompatible with a Free Society*; give it to your Tax Advisor/Representative and make sure he or she understands how to properly exercise your 4th and 5th Amendment rights which may result in limiting the examination to one tax return and one year. The IRS will usually ask for three years of personal tax returns and three years of all related business tax returns, along

with all of your books and records, bank statements, etc. If this information is provided, you have effectively waived your 4th and 5th Amendment rights, which will most likely result in an audit-from-hell. Unfortunately, many tax return preparers, including some CPA's and Tax Attorneys, are more than willing to fully capitulate, giving the IRS everything they demand, hoping that they will be reasonable. My experience over the past 35 years is that they are never reasonable; IRS Agents only get promoted by wringing more money out of unsuspecting and naïve taxpayers, who believe they will be spared if they cooperate fully.

Spread the word. The more people that understand this fraud perpetrated against Americans, the greater the likelihood that the IRS will be abolished and the income tax replaced with a national sales tax.

Dum spiro, spero—While I breathe I hope.

Slainte mhath,

Robert G. Beard Jr., C.P.A., C.G.M.A., J.D., LL.M.