

## TAX COURTS

### *Memorandum of Law*

The purpose of this memorandum is to reveal the lawless operation of tax courts in our federal district court buildings, presided over by federal district court judges. Taxpayers have been bullied and threatened, especially small taxpayers and those without legal assistance. There is no authority for the Judiciary of the United States District Courts to claim any legislative authority to create U.S. tax courts called an Article I Court. Such courts are de facto courts. Any tax upon a person or their property is tantamount to a slave tax whereas, the ‘taxer’ becomes the sovereign, any such tax is called a ‘direct tax’ which is ‘absolutely’ forbidden by Article I Section 9 Clause 4:

*“No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.”*

## JUDICIAL ABUSE AND FRAUD

*“Congress cannot by any definition of income it may adopt, conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully expressed.”<sup>1</sup>*  
*“The 16th Amendment does not justify the taxation of persons or things previously immune. It was intended only to remove all occasions for any apportionment of income taxes among the states. It does not authorize a tax on a salary.”<sup>2</sup>* *“In construing federal revenue statute [the] Supreme Court gives no weight to Treasury regulation which attempts to add to statute something which is not there.”<sup>3</sup>* *“Treasury regulations can add nothing to income as defined by Congress.”<sup>4</sup>*

## 16<sup>TH</sup> AMERICAN JURISPRUDENCE

*2<sup>nd</sup> edition, section 177:*

“The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The U.S. Constitution is the supreme law of the land, and any statute, to be valid, must be in agreement. It is impossible for both the Constitution and a law violating it to be valid, one must prevail. This is succinctly stated as follows:

---

<sup>1</sup> Eisner v. Macomber, 252 U.S. 189

<sup>2</sup> Evans V. Gore, 253 U.S. 245

<sup>3</sup> United States v. Calamaro, 354 U.S. 351 (1957), 1 L. Ed. 2d 1394, 77 S. Ct. 1138 (1957)

<sup>4</sup> Blatt Co. v. United States, 59 S. Ct. 472

The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it. As unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted."

Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it..."

A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, in so far as a statute runs counter to the fundamental law of the land, it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it."

Any court, government, or government officer who acts in violation of, in opposition, or contradiction to the foregoing, by his, or her, own actions, commits treason and invokes the self-executing Sections 3 and 4 of the 14th Amendment and vacates his, or her, office. It is the duty of every lawful American Citizen to oppose all enemies of this Nation, foreign and domestic.

## **USC TITLE 26 IS NOT LAW**

26 USC 7806(b) established that title 26 USC is not to infer, imply or presume to be law and therefore cannot have any legal effect because there exists no intent in law<sup>5</sup> and thereby the court cannot conclude presumption in law in the grouping of any particular section or provision or portion of USC Title 26.

26 USC 7806(b) *"No inference,<sup>6</sup> implication,<sup>7</sup> or presumption<sup>8</sup> of legislative<sup>9</sup> construction shall be drawn or made by reason of the location or grouping of any*

---

<sup>5</sup> **INTENDMENT OF LAW:** The true meaning, the correct understanding or intention of the law; a presumption or inference made by the courts. Co. Litt. 78.

<sup>6</sup> **INFERENCE:** In the law of evidence. A truth or proposition drawn from another which is supposed or admitted to be true. A process of reasoning by which a fact or proposition sought to be established is deduced as a logical consequence from other facts, or a state of facts, already proved or admitted. Whitehouse v. Bolster, 95 Me. 458, 50 A. 240; Joske v. Irvine, 91 Tex. 574, 44 S.W. 1059.

<sup>7</sup> **IMPLICATION:** Intendment or inference, as distinguished from the actual expression of a thing in words. In a will, an estate may pass by mere implication, without any express words to direct its course. 2 Bl. Comm. 381.

*particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the side-notes and ancillary tables contained in the various prints of this Act before its enactment into law,”* which never occurred nor could it by law occur.

The Reform Act of 1986, Pub. L. 99-514, §2, renamed the Code as the Internal Revenue Code of 1986, but did not make comprehensive changes to it. There are no historical and revision notes; and amendment notes only go back to 1954 as if it were a positive law title. Although Title 26 has not been enacted, the Internal Revenue Code has been (in 1939 and 1954) and is laid out exactly like Title 26. See act of Feb. 10, 1939, ch. 2, 53 Stat. 1; and act of Aug. 16, 1954, ch. 736, 68A Stat. 3. The said act of 1939 does not claim to be enacted into law.

USC Title 26 Internal Revenue Code was never codified and thereby never enacted into positive law, nor can it be because it has no constitutional authority. The fictitious<sup>10</sup> US Tax Courts, that the Federal Judiciary falsely claims to be an Article I court, are at best a nisi prius court<sup>11</sup> with no constitutional authority. As stated above, Congress in 26 USC 7806(b) established that Title 26 USC is not law and therefore there is no authority for the United States District Courts to presume any legislative construction, which means law, that can establish a tax court under 26 USC 7441.<sup>12</sup>

---

<sup>8</sup> **PRESUMPTION:** A “presumption” and an “inference” are not the same thing, a presumption being a deduction which the law requires a trier of facts to make, an inference being a deduction which the trier may or may not make, according to his own conclusions; a presumption is mandatory, an inference, permissible. Cross v. Passumpsic; PRIESUMPTIO JURIS. A legal presumption or presumption of law; that is, one in which the law assumes the existence of something until it is disproved by evidence; a conditional, inconclusive, or rebuttable presumption. Best, Ev. § 43. Fiber Leather Co., 90 Vt. 397, 98 A. 1010, 1014; Joyce v. Missouri & Kansas Telephone Co., Mo.App., 211 S.W. 900, 901.

<sup>9</sup> **LEGISLATIVE:** Making or giving laws; pertaining to the function of law-making or to the process of enactment of laws. See Evansville v. State, 118 Ind. 426, 21 N.E. 267, 4 L.R.A.93. legislative construction means “law.”

<sup>10</sup> **FICTITIOUS:** Founded on a fiction; having the character of a fiction; pretended; counterfeit. People v. Carmona, 79 Cal.App. 159, 251 P. 315, 317; State v. Tinnin, 64 Utah 587, 232 P. 543, 545, 43 A.L.R. 46. Feigned, imaginary, not real, false, not genuine, nonexistent. Bill alleging that amount of mortgage sought to be canceled was “fictitious” held to allege that mortgage was with-out consideration. Kinney v. Kinney, 230 Ala. 558, 161 So. 798, 800. Arbitrarily invented and set up, to accomplish an ulterior object. West Virginia Mortgage & Discount Corporation v. Newcomer, 101 W.Va. 292, 132 S.E. 748, 749.

<sup>1111</sup> **NISI PRIUS:** is a Latin term (Bouvier's Law) Where courts bearing this name exist in the United States, they are instituted by statutory provision; Black's 5th “Prius” means “first” “Nisi” means “unless.” A “nisi prius” procedure is a procedure to which a party FIRST agrees UNLESS he objects.; Blacks 4th - A rule of procedure in courts is that if a party fails to object to something, then it means he agrees to it. A nisi procedure is a procedure to which a person has failed to object A “nisi prius court” is a court which will proceed unless a party objects. The agreement to proceed is obtained from the parties first.

<sup>12</sup> **26 USC 7441:** Status. “There is hereby established, under article I of the Constitution of the United States, a court of record to be known as the United States Tax Court. The members of the Tax Court shall be the chief judge and the judges of the Tax Court. The Tax Court is not an agency of, and shall be independent of, the executive branch of the Government.”

Furthermore tax courts are de facto<sup>13</sup> statutory courts' that claims to be a court of record<sup>14</sup> which is to proceed according to the course of common law a/k/a natural law and not statutes. The United States Supreme Court said, "*The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it.*"<sup>15</sup>

The IRS, being a corporation, fraudulently claims to be the sovereign of the tax court under "26 USC 7441 Status" thereby decreeing unnatural law in a de facto court of record as they claim to be king over the People as if the People are subjects. This is an abomination; it is the People that are the sovereign. Agents of the IRS are employees of a fiction/corporation with no natural rights. There cannot be any statues or Constitutional authority that could allow a de facto statutory court to take control of the sovereign.

There is no authority for the Judiciary of the United States District Courts to claim any legislative authority to create U.S. tax courts<sup>16</sup> called an Article I Court. In Article III the People vested the Supreme Court and its inferior courts judicial power in all cases in law and equity, arising under this Constitution, the laws of the United States... (Title 26 is not law). Whereas Congress was empowered "*to constitute tribunals inferior to the Supreme Court*" as described in Article III. The Constitution is completely silent concerning the creation of a tax court ruled over by a sovereign corporation which is an oxymoron and therefore Congress can make no law concerning the same.

United States Constitution Article III Section 2 - *The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and*

---

(Aug. 16, 1954, ch. 736, 68A Stat. 879; Pub. L. 91-172, title IX, § 951, Dec. 30, 1969, 83 Stat. 730; Pub. L. 114-113, div. Q, title IV, § 441, Dec. 18, 2015, 129 Stat. 3126.)

<sup>13</sup> **De facto court:** One established, organized, and exercising its judicial functions under authority of a statute apparently valid, though such statute may be in fact unconstitutional and may be afterwards so adjudged; or a court established and acting under the authority of a de facto government. 1 Bl. Judgm. § 173; In re Manning, 139 U.S. 504, 11 S.Ct. 624, 35 L.Ed. 264; *Gildemeister v. Lindsay*, 212 Mich. 299, 180 N.W. 633, 635.

<sup>14</sup> **COURT OF RECORD:** "*A judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it proceeding according to the course of common law.*" *Jones v. Jones*, 188 Mo.App. 220, 175 S.W. 227, 229; *Ex parte Gladhill*, 8 Metc. Mass., 171, per Shaw, C.J. See, also, *Ledwith v. Rosalsky*, 244 N.Y. 406, 155 N.E. 688, 689.

<sup>15</sup> *Ex parte Watkins*, 3 Pet., at 202-203. [412 U.S. 218, 255]; *SCHNECKLOTH v. BUSTAMONTE*, 412 U.S. 218 (1973) 412 U.S. 218.

<sup>16</sup> [www.uscourts.gov/about-federal-courts/court-role-and-structure](http://www.uscourts.gov/about-federal-courts/court-role-and-structure) .

*maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;--between a state and citizens of another state;-- between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.*

Subsequently, there are no laws arising under the Constitution, nor can there be, for the creation of an Article I tax court. Such a creation is unlawful and thereby null and void. Tax courts lack personam jurisdiction over the People and the Judiciary is bound<sup>17</sup> thereby the supreme law of the land to cease and desist placating said abomination.

Article VI *“This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.”*

## **THE UNITED STATES SUPREME COURT DECISIONS CONCERNING TAX COURTS**

When one of the People enquire of their government servant(s) information concerning the law with an intent to obey the law the servants that have been empowered to exercise that law have a legal and moral duty to speak. *“Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading”* U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932.

*“No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence.”*<sup>18</sup>  
*“Illegitimate and unconstitutional practices get their first footing by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of persons and property should be liberally construed. A close and literal construction deprives them of*

---

<sup>17</sup> **Article VI:** This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

<sup>18</sup> Ableman v. Booth, 21 Howard 506 (1859).

*half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the Courts to be watchful for the Constitutional Rights of the Citizens, and against any stealthy encroachments thereon. Their motto should be Obsta Principiis.”*<sup>19</sup> - Boyd v United, 116 U.S. 616 at 635 (1885)

*“The requirement of an offense committed willfully is not met, therefore, if a taxpayer has relied in good faith upon a prior decision of this court.”* - U.S. vs Bishop, 412, U.S. 346 (1973) at 2017.

*“Only the rare taxpayer would be likely to know that he could refuse to produce his records to Internal Revenue Service agents.” ... “Who would believe the ironic truth that cooperative taxpayer fares much worse than the individual who relies upon his Constitutional rights.”* - United Station vs. Dickerson, 413 F 2D 1111.

*“The legal right of a tax payer decrease the amount of what otherwise would be his taxes, or altogether avoid them, by means within the law permits, cannot be doubted...”* - Gregory vs. Helvering, 293, US 465.

*“The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. He has no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to incriminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of this life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights...an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute...”* - Hale vs. Henkel, 201 U.S. 43 at page 74.

*“To penalize the failure to give a statement which is self-incriminatory is beyond the power of Congress.”* - U.S. v. Lombardo, 228 F 980.

*“Privilege against self-incrimination is in part individual's substantive right to private conclave where he may lead a private life. Constitutional foundation underlying privilege against self-incrimination is the respect of the government, state or federal,*

---

<sup>19</sup> **OBSTA PRINCIPIIIS:** Lat. Withstand begin-nings; resist the first approaches or encroach-ments. Bradley, J., Boyd v. U. S., 116 U.S. 635, 6 Sup.Ct. 535, 29 L.Ed. 746.

*must accord to dignity and integrity of its citizens. Fifth Amendment provision that individual cannot be compelled to be witness against himself cannot be abridged.” - Miranda vs. State of Arizona, 380 US 436 (1966)*

*“... That statute(s) which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land.” -- Hoke vs. Henderson, 15, N.C.15,25 AM Dec 677.*

*“This willful qualification fully protects one whose refusal is made in good faith and upon grounds which entitle him to the judgment of the court before obedience is compelled.” - Federal Power Commissions v. Metropolitan Edison Co. 304 U.S. 375.*

*“The claim and exercise of a constitution right cannot be converted into a crime.” - Miller v. U.S. 230 F 486 at 489.*

*“Once warnings have been given, if individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, interrogation must cease. ... Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them.” - Ernesto A. Miranda v. State of Arizona, United States Supreme Court, decided June 13, 1966.*

*“There can be no sanction or penalty imposed upon one because of his exercise of Constitution rights.” - Sherar vs. Cullen 481 F 2D 946, (1973).*

*“The Constitutional privilege was intended to shield the guilty and imprudent, as well as the innocent and foresighted.” - Marchetti vs. United States, 390U.S. 39 at page 51.*

*“The privilege is not limited to testimony, as ordinarily understood, but extends to every means by which one may be compelled to produce information which may incriminate.” - Boyd vs. United States, Supra; Brown vs. Walerk, 161,U.S. 591; Distinguishing Hale vs. Henkel, 201 U.S. 43; Wilson vs. U.S. 221,U.S. 612; United Station vs. Sisco.262 U.S. 165; McCarthy vs Arndstein,266 U.S. 34; United States vs. Lombardo, 228 Fed. 980; United States vs. Dalton, 286 Fed 756; United States vs. Mulligan, 268 Fed 893; United Statesvs. Cohen Grocery Co., 225 U.S. 81; United States v. Sherry, 294 Fed, 684*

In conclusion, said tax courts have no constitutional authority, can provide no due process, have no basis in law, have no jurisdiction over the People and therefore must cease and desist all their unlawful actions against the People.