

Anti-Tax Law Evasion Schemes

Presenter's Name
Contact Information
Date

Background

- Since shortly after the federal income tax was enacted in 1913, some individuals and groups have encouraged others not to comply with the laws.
- There have been multiple unsuccessful challenges about the applicability of tax laws using a variety of arguments.

Just the Facts

- U.S. Constitution 1(8)(1): Gives Congress the authority to collect taxes to pay the debts and provided for the defense and welfare of the U.S.
- IRS: Established July 1, 1862, by an act of Congress and charged with administering and enforcing the Internal Revenue Code.
- Courts: Continually have held there are no Constitutional or legal grounds for failure to file or pay taxes.

Just the Facts (Cont'd)

- The term “voluntary” means that each person is responsible for filing, determining, and paying the correct amount of tax.
- Failure to file returns and pay taxes may result in criminal and/or civil penalties.
- All U.S. citizens have the right to appeal their taxes through the U.S. court system.

Types of Anti-Tax Schemes

- Three varieties of schemes:
 - Frivolous Arguments
 - Constitutional Arguments
 - Other Arguments

Frivolous Arguments

“Filing and paying taxes is voluntary.”

The Truth:

“Voluntary” as used in IRS instructions and publications refers to the U.S. system of allowing taxpayers to compute the correct amount of tax and to file the appropriate forms voluntarily instead of the government doing it for them.

Frivolous Arguments

“Section 6020(b) requires the IRS to prepare returns for you.”

The Truth:

Section 6020(b) simply provides the IRS with a tool to determine the tax liability of taxpayers who fail to file. It does not require the IRS to file returns for those who fail to file.

Frivolous Arguments

“Wages, tips, and other compensation are not income because there is allegedly no taxable gain when a person “exchanges” labor for money.”

The Truth:

The term “gross income” means all income from whatever source including compensation.

Frivolous Arguments

“Only foreign source income is taxable.”

The Truth:

Reg. 1.1-1(b) provides that all citizens and residents of the U.S. are subject to taxes imposed by the Code whether the income is received from U.S. sources or not.

Frivolous Arguments

“Federal Reserve Notes are not valid currency and cannot be taxed.”

The Truth:

Federal Reserve Notes have been declared as legal tender by Congress and they are taxable. The courts have upheld this position on numerous occasions.

Frivolous Arguments

“I am not a citizen of the U.S. and therefore not subject to federal income tax laws.”

The Truth:

The 14th Amendment to the Constitution states that “all persons born or naturalized in the U.S. and subject to the jurisdiction thereof, are citizens of the U.S. and of the state wherein they reside”.

Frivolous Arguments

“The U.S. consists only of the District of Columbia, federal territories (Puerto Rico, Guam, etc.), and federal enclaves (military bases, American Indian reservations, etc.).”

The Truth:

The IRC imposes federal income tax on all U.S. citizens and residents. The 16th Amendment authorizes a direct non-apportioned tax on all U.S. citizens.

Frivolous Arguments

“Taxpayer is not a person as defined by the IRC.”

The Truth:

Section 7701(a)(14) defines “taxpayer” as any person subject to any internal revenue tax.

Section 7701(a)(1) defines “person” to include an individual, trust, estate, partnership, or corporation.

Frivolous Arguments

“Section 3401(c) says only employees of the federal government are subject to federal income tax.”

The Truth:

The language in section 3401(c) was written to specifically include federal employees in the definition of an employee and cannot be used to limit the definition of the term “employee”.

Constitutional Arguments

“Federal income tax laws are unconstitutional because the 16th Amendment was not officially ratified.”

The Truth:

The 16th Amendment was properly ratified in 1913.

The Supreme Court has also upheld the constitutionality of laws enacted after the 16th Amendment was ratified.

Constitutional Arguments

“The 16th Amendment does not authorize a direct non-apportioned federal income tax on U.S. citizens or residents.”

The Truth:

The courts have consistently recognized that the 16th Amendment authorizes direct non-apportioned income tax and that federal tax laws are valid.

Constitutional Arguments

“Compelled compliance with federal tax laws constitutes servitude violating the 13th Amendment.”

The Truth:

The 13th Amendment prohibits slavery and involuntary servitude. The courts have consistently found arguments that taxation constitutes involuntary servitude to be frivolous.

Constitutional Arguments

“Filing returns and providing financial information constitutes self-incrimination violating the 5th Amendment.”

The Truth :

Failure to file or comply with tax reporting requirements is not excused based on blanket assertions of constitutional privilege against self-incrimination.

Constitutional Arguments

“Federal income taxes constitute a taking of property without due process, violating the 5th Amendment.”

The Truth:

The Supreme Court has held that the administrative procedures contained in the IRC are sufficient to satisfy the requirements of due process.

Constitutional Arguments

“Filing returns and disclosing financial information violates the 4th Amendment right to privacy.”

The Truth:

Courts have consistently held that the disclosure of routine financial information requested on a federal tax return does not violate the 4th Amendment right to privacy.

Constitutional Arguments

“Using the 1st Amendment, a person can set up an organization claiming to be a church and then take a vow of poverty assigning all income and assets to the new organization.”

The Truth:

The law affords benefits to churches and other religious organizations and to those who make contributions to them. However, the organizations must be operated for religious purposes and not for private benefit of individuals.

Other Arguments

“The IRS is a private corporation, not an agency of the United States and has no authority to enforce the Internal Revenue Code.”

The Truth:

The Secretary of the Treasury has full legislative authority to administer and enforce internal revenue laws and the power to create an agency to enforce such laws. The IRS was established by an act of Congress on July 1, 1862.

Other Arguments

“Since there is no ‘OMB’ number on Form 1040 instructions or the related regulations, you can not be penalized for not filing.”

The Truth:

Courts have uniformly rejected this argument based on the grounds that Form 1040 does have an ‘OMB’ number or that the Paperwork Reduction Act was not enacted to abrogate any duty imposed by Congress.

Need Additional Information? Contact Phone Number

If you have specific questions on a tax scheme or wish to report possible schemes, call the IRS at:

1-866-775-7474

or email the IRS at: irs.tax.shelter.hotline@irs.gov

Need Additional Information? Through the Web

- Visit Criminal Investigation's Tax Fraud Alert page at: www.ustreas.gov/irs/ci/
- Visit IRS's web site at: www.irs.gov

Need Additional Information? Through IRS Publications

All found on www.irs.gov:

- Pub. 3995, *Is It Too Good To Be True - Recognizing Illegal Tax Avoidance Schemes*
- Pub. 17, *Your Federal Income Tax for Individuals*
- Pub. 334, *Tax Guide for Small Business*

Questions?

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