
USC TITLE 26

Memorandum of Law

USC TITLE 26 HAS NO DEFINED JURISDICTION IT IS NOT THE LAW OF THE LAND

USC Title 26; the Internal Revenue Code is the body of law that codifies all federal tax laws, including income, estate, gift, excise, alcohol, tobacco, and employment taxes. The tax courts claim to be a court of record and like USC 18 supplants the Common Law claiming its jurisdiction to be the “*Law of the Land*” and a Court of Record with stacked grand and petit juries.

USC Title 26 is an enigma, Title 26 Section 1A and B¹ was enacted into positive law² in 1979 and then Section 1A and B was “OMITTED,” see TABLE 1, 1986 Code Section number 1. Therefore USC 26 is not law and if it were it would be repugnant to the Constitution.

USC TITLE 26 §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.³ A Court of Record’s jurisdiction is Natural Law and not statutes and is therefore an oxymoron.

Title 26 has not been enacted it is NOT Positive Law it is 6,496 pages of gibberish. The Tax Court is at best an Administrative Court, while it claims to be an “Article I Court, while in fact there is absolutely no Constitutional authority for the creation of a Tax Court or a so called Article I Court. You must be participating (signing a 1040 or other IRS document) to be under their jurisdiction, nevertheless administrative courts are nisi prius

¹ (A) Treasury Regulation section 1.103–13(g) (1979) is hereby enacted into positive law. (B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which such regulation was provided to apply. (ii) Treasury Regulation section 1.103–13(g) (1979) as enacted into positive law by subparagraph (A) shall cease to apply to the extent hereafter modified by the Secretary of the Treasury or his delegate by regulations.

² VALIDATION OF SINKING FUND REGULATIONS: Pub. L. 100–647, title I, §1013(a)(35), Nov. 10, 1988, 102 Stat. 3544, provided that: “(A) Treasury Regulation section 1.103–13(g) (1979) is hereby enacted into positive law. “(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which such regulation was provided to apply. “(ii) Treasury Regulation section 1.103–13(g) (1979) as enacted into positive law by subparagraph (A) shall cease to apply to the extent hereafter modified by the Secretary of the Treasury or his delegate by regulations.”

³ 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).

courts that do not have the power to fine or incarcerate. Furthermore, all United States Codes that have been “enacted by Congress” and are not “repugnant to the Constitution” are a part of the “Law of the Land” within its proper jurisdiction.

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. 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.”

Article I Section 9 clause 4 states, “No capitation, or other direct, tax shall be laid,” which means NO INCOME TAX is to be placed upon We the People: The United States Supreme Court clarified this point when they said, “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.”⁴ “Congress cannot by any definition (of income in this case) 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.”⁵ “In construing federal revenue statute, Supreme Court gives no weight to Treasury regulation which attempts to add to statute something which is not there.”⁶

“The income tax system is a self-reporting and self-assessing one. It is based upon voluntary assessment and payment not distraint.”⁷ Therefore, tax courts operating under USC 26 are administrative courts, which mean “We the People” do not have to participate, and for those who have been fraudulently intimidated into participating may also deny their jurisdiction. As per Chief Justice William Rehnquist’s remarks at the rededication of the National Archives (September 17, 2003), he said, “*I believe that the creation of an independent constitutional court, with the authority to declare unconstitutional laws passed by the state or federal legislatures, is probably the most significant single contribution the United States has made to the art of government.*”

The Internal Revenue Code defines a contract between the IRS and the individual. 26 USC 7806(b) says that Title 26 is not law, as we read, “*No inference, implication or presumption of legislative construction⁸ shall be drawn or made by reason of the*

⁴ Evans V. Gore, 253 U.S. 245.

⁵ Eisner v. Macomber, 252 U.S. 189.

⁶ United States v. Calamaro, 354 U.S. 351 (1957), 1 L. Ed. 2d 1394, 77 S. Ct. 1138 (1957).

⁷ Flora v. United States, 362 U.S. 145 176.

⁸ CONSTRUCTION: Blacks 4th The process of bringing together and correlating a number of independent entities, so as to form a definite entity. The Dredge A, D.C.N.C., 217 F. 617, 631.; The process, or the art, of

location or grouping of any particular section or provision or portion of this title...” N.B. “legislative construction” means “law” and the following United States Supreme Court decision unmistakably states the same conclusion:

“The fact that 26 USCS Sec. 4161(a) is located in part of Code dealing with recreational equipment and sporting goods is of little significance in determining applicability of tax to lures used in commercial fishing since Sec. 7806 provides that nothing is to be inferred from grouping or indexing of any particular section.”⁹

THE UNITED STATES SUPREME COURT DECISIONS CONCERNING TAX COURTS

“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.”¹⁰ “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.”¹¹ “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.”¹² “Treasury regulations can add nothing to income as defined by Congress.”¹³

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.

“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

determining the sense, real meaning, or proper explanation of obscure or ambiguous terms or provisions in a statute ... or the application of such subject to the case in question, by reasoning in the light derived from extraneous connected laws or writings bearing upon the same or a connected matter, or by seeking and applying the probable aim and purpose of the provision. Koy v. Schneider, 110 Tex. 369, 221 S.W. 880, 884.

⁹ Nordby Supply Co. v United States (1978, CA9 Wash) 572 F2d 1377, cert den 439 US 861, 58 L Ed 2d 170, 99 S Ct 182.

¹⁰ Eisner v. Macomber, 252 U.S. 189.

¹¹ Evans V. Gore, 253 U.S. 245.

¹² United States v. Calamaro, 354 U.S. 351 (1957), 1 L. Ed. 2d 1394, 77 S. Ct. 1138 (1957).

¹³ Blatt Co. v. United States, 59 S. Ct. 472.

cooperative taxpayer fares much worse than the individual who relies upon his Constitutional rights.” - United Station vs. Dickerseon,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 arrestor 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, 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