

ROBERT F. BENNETT
UTAH

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United States Senate

WASHINGTON, DC 20510-4403
(202) 224-5444

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SUITE 4B
CEDAR CITY, UT 84720-2686
(435) 865-1335

Thank you for your letter regarding the status of money and legal tender in the United States. I apologize for the delay in my response and welcome the opportunity to respond.

Money is a unit of measure used as a medium of exchange that can be recognized and honored at a consistent value in a society. Property extends to objects of worth or value belonging to one person. The U.S Mint often produces gold and silver coins with fair market value above the marked face value on the head of the coin. These coins are considered legal tender or money in that they can be used to pay debt or as a medium of exchange in financial transactions, such as buying food at the grocery store. However, they are also considered property in that their fair market value exceeds their face value, and they are often bought and sold themselves, for example, by coin collectors. When the coin itself is the subject of the transaction, it counts as property, and is subject to a property tax.

This distinction was recently brought to light on May 22, 2007, when the United States District Court of Nevada announced its decision in *United States v. Kahre*. Mr. Kahre was charged with willful failure to collect or pay withholding taxes, conspiracy to evade tax payment, and other similar charges. He was actively boycotting the Federal Reserve System and was conducting his business dealings in gold and silver United States Department of Treasury coins in an attempt to avoid paying taxes on his income. In this case, the court ruled that Mr. Kahre was guilty of tax avoidance for not declaring the fair market value of the coins in his possession.

This case clarified the different uses of these coins, but it did not declare the coins obsolete from legal tender. These coins remain legal tender even if their fair market value exceeds their face value. Courts have consistently held that when the fair market value of legal tender, such as gold or silver coins, exceeds its face value, the owner must regard that legal tender as property and report it to the Internal Revenue Service at the higher value.

Thank you again for writing.

Sincerely,



Robert F. Bennett
United States Senator

RFB:nc

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