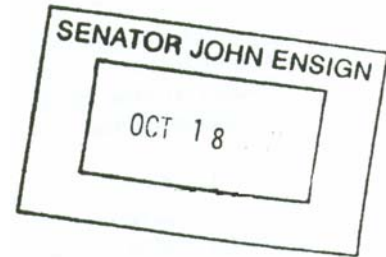




EXHIBIT 34

Department of the Treasury
Internal Revenue Service
Washington, DC 20224

October 15, 2001



The Honorable John Ensign
United States Senate
333 Las Vegas Blvd. So. Suite 8203
Las Vegas, NV 89101

Attention: Paulette Simpson Dear Senator Ensign:

I am responding to your letter dated September 26, 2001, on behalf of your Constituent, [REDACTED] had concerns regarding the authority by which the Internal Revenue Service (IRS) requires an individual to file a federal income tax return.

It is not the policy of the IRS to respond to letters, such as [REDACTED], on a point-by-point basis. Letters such as his almost always reflect personal opinions and frustrations with the tax system, which the IRS is unable to address. If more information is needed, [REDACTED] may wish to contact the Library of Congress.

The federal tax law enacted by the Congress is contained in Title 26 of the United States Code and is reproduced separately as the Internal Revenue Code (the Code). Under Title 26, the IRS is a part of the United States Department of the Treasury. It was created according to the federal tax law. Generally, Section 7803 of the Code provides that there shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President, by and with the advice and consent of the Senate. Section 7803 of the Code states the Commissioner shall have such duties and powers as may be prescribed by the Secretary of the Treasury. Section 7804 of the code states the Secretary is authorized to employ such number of persons as the Secretary deems proper for the administration and enforcement of the Internal Revenue laws. Under Sections 7802 and 7803 of the Code, the IRS performs administrative and enforcement duties.

Sections 6001 and 6011 of the Code provide, in pertinent part, that every person liable for any tax imposed by the Code shall make a return. In addition, Section 6012 of the Code provides that every individual whose gross income equals or exceeds certain amounts shall make a federal income tax return. "Shall" as used in Sections 6001, 6011, and 6012, means "must"; "must" means "to be required to." Who is required by the Code to file a return is explained in the instructions for Form 1040 under the heading "Filing Requirements."

EXHIBIT 34-B

The Sixteenth Amendment, making the income tax constitutional, was ratified in 1913. The Constitution, Article 1, Section 6 through 9, and the Sixteenth Amendment give the Federal Government the right to levy and collect taxes. The Sixteenth Amendment authorized a progressive income tax. The courts have rejected claims that the Sixteenth Amendment was not properly ratified. The Amendment was ratified by 38 states altogether, and ratification was necessary by only 36.

The U. S. Supreme Court has held that the requirement that individuals file a federal income tax return does not violate the self-incrimination clause of the Fifth Amendment *United States v. Sullivan*, 274 U.S. 259 (1927). Judicial precedents clearly establish that failure to comply with the filing and reporting requirements of the federal income tax laws will not be excused based upon blanket assertions of constitutional privilege against self-incrimination under the Fifth Amendment. *United States v. Irwin*, 561 F.2d 198 (10th Cir. 1977), cert. Denied, 434 U.S. 1012 (1978); *United States v. Neff*, 615 F.2d 1235 (9th Cir. 1980), cod. Denied, 447 U.S. 925 (1980).

The statutory provisions of the Code that require the filing of income tax returns do not violate the Fourth Amendment prohibition against unreasonable searches and seizures by the Federal Government. In *Flint v. Stone Tracey Co.*, 220 U.S. 107 (1911), the Supreme Court said: "Certainly the Amendment was not intended to prevent the ordinary procedure of requiring tax returns to be made, often under oath."

The positions raised by [REDACTED] have been the subject of numerous court decisions that have held these positions to be contrary to existing law. See e.g., *United States v. Hilgeford*, 7 F.3d 1340 (7th Cir. 1993), *United States v. Jugim*, 978 F.2d 1032 (8th Cir. 1992). In addition, the courts have often imposed sanctions on taxpayers who raise these types of arguments in litigation. For example, in *Coleman v. Commissioner*, 791 F.2d 68,69 (7th Cir. 1986), the court stated.

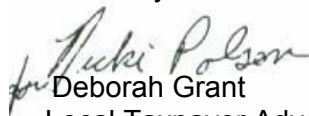
Some people believe with great fervor preposterous things that just happen to coincide with their self-interest. Certain individuals have convinced themselves that wages are not income, that only gold is money, that the Sixteenth Amendment is unconstitutional, and so on. These beliefs all lead to the elimination of their obligation to pay taxes. The government may not prohibit the holding of these beliefs, but it may penalize people who act on them.

See also e.g., *Connor v. Commissioner*, 770 F.2d 17, 20 (2nd Cir. 1985) (The argument that wages are not income "has been rejected so frequently that the very raising of it justifies the imposition of sanctions"); *Cram v. Commissioner*, 737 F.2d 1417, 1717 (5th Cir. 1984) ("We perceive no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest that these arguments have some colorable merit.")

The Government expects voluntary compliance with the federal tax law. This means that we expect taxpayers to comply with the law without being compelled to do so by action of a Government agent; it does not mean the taxpayer is free to disregard the law. If an individual is required by law to file a return or pay tax, it is mandatory that he or she do so. Failure to do so could cause the individual to be subject to civil and criminal penalties; including fines, and imprisonment. See, for example, Schiff v. Commissioner, T.C.M. 1984-223, aUd, 751 F.2d 116 (2nd Cir. 1984).

I hope this information is helpful. If we can be of further assistance, please call Jeanne Hanners, Identification Number 88-57052, at (702) 455-1184, or if you prefer, you may write us at IRSITAS, 4750 West Oakey, M/S 1005, Las Vegas, NV 89102.

Sincerely,



Deborah Grant
Local Taxpayer Advocate
Identification Number 88-96878

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