

"The public welfare demands that constitutional cases must be decided according to the terms of the Constitution itself, and not according to judges' views of fairness, reasonableness, or justice."

-- Justice Hugo L. Black (U.S. Supreme Court Justice, 1886 - 1971).

"If we know the truth, we must tell it; if we don't, we must learn it!" It is critical to our spirit.

"It is not the function of our government to keep the Citizen from falling into error; it is the function of the Citizen to keep the government from falling into error." American Communications Ass'n v. Douds, 339 U.S. 382, 442.

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**This is not legal advice.** This simply is what I have learned and would send to the powers that be when necessary. Statutes at Large are in the Public domain located here:

<http://memory.loc.gov/ammem/amlaw/lwsl.html>

#### HISTORICAL REVIEW OF TITLE 26 AND STATUTES AT LARGE

The Internal Revenue Service relies on Sections 6201, 6321 and 6331 of Title 26 as the reference for legal evidence of authority of law to assess, lien and/or levy for the collection of alleged income taxes.

The laws, which apply to the general public of the 50 Union States, are referred to as the Statutes at Large. These Statutes are clear as to the taxable activities and to those liable for these activities as shown by the Statutes at Large. There are numerous Federal Court decisions in affirmation. Cites below:

"The official source to find United States law is the Statutes at Large and the United States Code is only prima facie evidence of such laws." Royer's Inc. v. United States, 265 F2d 615, 59-1 (1959, CA3 Pa)

"Unless Congress affirmatively enacts title of United States Code into law, that title is only "prima facie" evidence of the law." Preston v. Heckler, 734 F2d1359, (1984, CA9 Alaska)

"... that the Code establishes "prima facie" the laws of the United States , the very meaning of "prima facie" being that the Code cannot prevail over the Statutes at Large when the two are inconsistent." Stephen v. United States, 319 U.S. 423 (1943); United States v. Welden, 377 U.S. 95 (1964)

"The Code establishes prima facie what the laws of United States are but to the extent that provisions of Code are inconsistent with Statutes at Large, The latter will prevail" Best Food, Inc. v. United States, 147 F Supp 749 (1956)

"Internal Revenue Code construction to Statutes at Large must be made by individual section and subsection since each section and subsection is derived from their own set of

Statutes at Large pamphlet, Joint Committee in Taxation, 'Derivations of Code Sections of the Internal Revenue Codes of 1939 and 1954 (JCS-1-92) January 21, 1992, U.S. Government Printing Office.'

As it should be easily understood by the Justice Department Tax Division counselors;

1) Assessment– The IRS claims this authority rests in Title 26 USC §6201. Legal presumption of lawful authority of Section 6201 by the IRS, as applied is hereby refuted and rebutted for the collection of income tax.

Section 6201 of the Internal Revenue code is derived from section 3182 of Revised Statutes of 1874. The types of taxes authorized by Congress to be assessed are described in crystal clarity in Statutes at Large enacted on Dec 24, 1872, chap. 13, sec.2, vol. 17, page 402 which describes authorized assessment of taxes by the Secretary and apply only to tobacco and distilled spirits. The original intent of Congress has not changed as there has been no amendment to the Statute at Large to date. Since I nor my spouse are not involved with any trade or business having to do with tobacco or distilled spirits for the years in question, NO AUTHORITY TO ASSESS EXISTS.

2) Liens – Authority to Lien for Taxes rests in Title 26 §6321. Legal presumption of lawful authority of Section 6321 by the IRS, as it applies to Petitioner and his spouse is hereby refuted and rebutted for the collection of Income tax.

The Internal Revenue Code, Section 6321, was derived from the 1954 code, which was derived from section 3670 of the 1939 code. (Joint committee on Taxation, Derivations of Code Sections of the 1939 and 1954 code, 1992, U.S. Govt.). Section 3670 of the 1939 code was derived from section 3186 of the Revised Statutes of 1874 (R.S. 1874) and was termed "Lien for Taxes." This section was derived from the actual Statute passed by Congress on July 13, 1866. This Act identifies only excise taxes on cotton and distilled spirits as subject to lien. This Act was amended by an act dated May 29, 1928, Vol.45 of the Statutes at Large, page 875, Chap. 852 Section 613 to amend the method of lien. The act does not change the taxes authorized by Congress to create a lien per the original Statute at Large of 1866, namely excise taxes on cotton and distilled spirits, NOTHING ELSE. I nor my spouse are not or were not involved in the trade or business of cotton or distilled spirits, there is NO LEGAL BASIS FOR ESTABLISHING A LIEN.

3) Levy – Authority to levy for taxes rests in Title 26 §6331(a). Legal presumption of lawful authority of Section 6331 by the IRS, as it applies to Petitioner and his spouse is hereby refuted and rebutted for the collection of Income tax.

Section 6331 was derived from the 1954 code, which was derived from Sections 3310, 3660, 3692 and 3700 of the 1939 Code (Joint Committee on Taxation, Derivations of Code Sections of the 1939 and 1954 code, 1992, U.S. Govt.) Section 3690 is the single identifying sections on the species of tax, which can be collected by distraint and was derived from Revised Statutes of 1874 section 3187 and is titled "Taxes collectible by distraint." The actual Statute at Large enacted by Congress, which conclusively reveals Congressional intent as to taxes authorized to be collected by levy and distraint was enacted on July 13, 1866 and refers with great specificity only to taxes on cotton and

distilled spirits. (See Cap.184, Section 9, vol.14, pp. 98 and 106 of the Act).The Statutes at Large has not been amended to this date. Therefore the original intent of Congress has not changed. Since I nor my spouse were not involved in the trade or business of cotton or distilled spirits, there is NO LEGAL BASIS NOR AUTHORITY FOR SUBJECTING ME OR MY SPOUSE TO A LEVY.

The above Statutes are in complete harmony with the official Federal Register Index that clearly shows the implementing regulations for Title 26.I invite your attention to the CFR index. The implementing regulation for Title 26 Sections 6201, 6321 and 6331 is Title 27 part 70, which is a regulation that applies only to the Bureau of Alcohol, Tobacco and Firearms and/or the Tax and Trade Bureau. Implementing regulations for Section 7602 of Title 26 resides in Title 27 CFR, parts 29, 46, 70 and 296.Title 26 USC 7608 provides its authority to 27 CFR parts 296 and 70 only.

Consequently, there exists no statutory authority for the Internal Revenue Service to summons, (7608 (b) (2) (A)), assess, lien or collect income taxes by distraint.

The Revenue Officer and the IRS are acting without authority and under color of law, in violation of the laws of the United States and in violation of Petitioner's Constitutional right to due process of law. The legal obligation and burden of proof under 26 USC § 7491 now rests the IRS to demonstrate any documented evidence to the contrary.

Regards,

*Bentley*

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All are presumed to be federal citizens?

### **The Law of Obligation**

"The rights of the individuals are restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government." City of Dallas v Mitchell, 245 S.W. 944