

Petition For Redress of Grievances

UNITED STATES CONGRESS
IN THE HOUSE OF REPRESENTATIVES

Douglas J. Heuer,)	
Petitioner,)	
)	Case # 2024A_____
vs)	
)	Petition for Redress of Grievances
United States Congress,)	
Representative)	
Andrea Salinas.)	

JURISDICTION in this instant case arises from the United States Constitution, First Amendment "to petition the government for redress of grievances."

WHEREAS, the United States Constitution, Article 1, Section 2, Clause 3 states that: "Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers..."

WHEREAS, the U. S. Constitution Article 1, Section 9, Clause 4, states that:

"No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken."

WHEREAS, the U. S. Constitution Article 1, Section 8, Clause 3, and the 16th Amendment to the Constitution requires all *indirect taxes*, including income taxes, to be levied and collected uniformly from whatever source derived, without apportionment. Indirect taxes are not levied *directly* onto citizens, individuals or personal property. Indirect taxes are paid in the course of commerce and trade, collected by business and industry transactions who ultimately pass these indirect taxes to consumers.

RESOLVED, that taxes on citizens, taxes on individuals, property taxes, capitation taxes, personal taxes, are all DIRECT TAXES that require apportionment among the several states. That excise taxes, wage taxes, and indirect income taxes, be uniformly collected from the source at the time of the transaction without regard to any individual status, individual exemptions, or personal circumstances. Indirect taxes apply to items of commerce and not directly on individuals or citizenship.

And be it, **FURTHER RESOLVED** that all labor taxes be paid and collected by the source, including FICA, Social Security, and other taxes, upon the purchase of hourly wages of labor; that these taxes are required to be paid by all employers, not on employees. Thus, remove citizens who are merely wage earners from the compulsory tax rolls which would substantially reduce the IRS.

AFFIRMATIVE ARGUMENTS OF LAW

1. TWO GREAT CLASSIFICATIONS OF TAXES

Congressional Research Service report numbered 80-19A, page 1, states that:

"The Income Tax as an Indirect Excise Tax."

"The United States Constitution divides all taxes into two classes: direct taxes and indirect taxes. Direct taxes must be levied according to the rule of apportionment and indirect taxes must be levied according to the rule of uniformity.

"The classification of direct taxes and the rule of apportionment is set forth in Article 1, Section 9, Clause 4 of the Constitution, which states:

‘No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

"The classification of indirect taxes and the rule of uniformity is set forth in Article I, Section 8, Clause 1 of the Constitution..."ⁱ

2. THE 16TH AMENDMENT DOES NOT RELIEVE DIRECT TAXES FROM THE CONSTITUTIONAL REQUIREMENT OF APPORTIONMENT.

The requirement that direct taxes be apportioned was not changed by the adoption of the 16th Amendment. In *Brushaber v. Union Pacific R. R. Co.*, 240 U.S. 1 (1916) @ page 502, the court stated:

"...the Amendment demonstrates that no such purpose was intended, and on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operations. "...the contention that the Amendment treats a tax on income as a direct tax although it is relieved from apportionment and is necessarily therefore not subject to the rule of uniformity as such rule only applies to taxes which are not direct, thus destroying the two great classifications which have been recognized and enforced from the beginning, is also wholly without foundation."

In *Stanton v. Baltic Mining Co.*, 240 US 103 (1916) the Supreme Court said:

"The 16th Amendment conferred no new power of taxation, but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged."

The Tax Court of the United States in *Penn Mutual Indemnity Co. v. Commissioner*, 32 TC (1959), CCH at page 659, concedes that:

"The source of the taxing power is not the 16th Amendment. It is Article I, Section 8, of the Constitution."

Moreover, an income tax pursuant to the Sixteenth Amendment is not a direct tax on the source of income; but is an indirect tax on ***income derived from the source***. The whole purpose of the sixteenth Amendment was to separate the source from the income. "...the result intended (was) the prevention of the resort to the sources from which a taxed income was derived, in order to cause a direct tax on the income, to be a direct tax on the source itself, and thereby take an income tax out of the class of excises, duties and imposts and place it in the class of direct taxes." *Brushaber v. Union Pacific R. R. Co.*, 240 U.S. 1 (1915).

Direct taxes also include a capitation tax, which imposes a tax on every person "without regard to property, profession, or any other circumstance." *National Federation of Independent Business v. Sebelius*, 567 U. S. 519, 571 (2012) (NFIB)

And most recently, the Supreme Court in *Moore v United States*, 602 U.S. ____ (2024) again restated the holdings of all those previous decisions demarking direct taxes and indirect taxes. "Regardless of whether one uses the term "derived" or "realized," the important point is this: The Sixteenth Amendment and the Direct Tax Clause distinguish between taxes on property, which are subject to apportionment, and taxes on income derived or realized from that property, which are not."

Thus, taxes on wages "collected from the source" during commerce are considered indirect taxes, taxes on wage earners (persons) and their property (wages) are considered direct taxes.

3. WAGES SUBJECT TO EXCISE TAXES ARE PAID BY EMPLOYERS

Labor is property, employers consume labor and then pay wages to employees. Facts and logic dictate that the employers are consumers by the payment of wages and thus are the source of payments, including wages, benefits, and employment taxes.

Employers are the “source” of wages that are paid in conducting commerce. The Constitution requires indirect taxes to be applied to items of commerce which lands on consumers or buyers of goods, services, and property.

FICA and social security taxes follow the constitutional rule of uniformity by collecting the tax from the source (the employer); the employee has no say in the collection of these wage taxes because they are uniform on all wages, no one is exempt. It may be argued that the tax is deducted from an employee's wages, but in fact, it is actually paid by employers. Without the payment of wages by the employer, the employee has no money to pay taxes; facts and logic dictate that the employers are the source of money for all wages and all employment taxes. A genuine examination of wage taxes will reveal that the indirect excise tax on wages fits squarely on employers as allowed under the "commerce clauses". The key or distinguishing element of an indirect tax is the ability to shift the tax and employers and entrepreneurs effectively shift taxes to items sold in commerce. Employees on the other hand are not able to shift the tax; thus, indirect taxes belongs on employers, and not directly on employees; indirect taxes apply to businesses and transactions but not directly on individuals.

4. SUMMARY

Direct taxes without apportionment are clearly unconstitutional. Indirect taxes are ultimately paid by consumers. But these taxes fall squarely on commerce and collected by businesses in acts of commerce. Business taxes need not be placed on citizens. Remove wage earners from tax liability and compliance and then collect all wage taxes from employers. Employers will be able to add these costs to their products and services, which they already do.

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ⁱ SOME CONSTITUTIONAL QUESTIONS REGARDING THE FEDERAL INCOME TAX LAWS. Report No. 80-19A 723/275 Congressional Research Service. (1980)