

from

Was Grandpa Really a Moron?

Critical Inquiries for a New American Century

by

Peter E. Hendrickson

**Non-Filing Only Benefits The IRS (Almost As Much As
Filing Inaccurately)**



Among the most pernicious, and persistent, bits of nonsense hindering many Americans otherwise ready and willing to stand and act on behalf of the rule of law in regard to the "income" tax is the notion that executing a tax return has inherently adverse legal effects. In fact, nearly the exact opposite is clearly and demonstrably true-- FAILING to execute a return (of one flavor or another, depending on circumstances) has inherently adverse legal consequences.

This is because the vast majority of Americans are made the subject of one or more "information returns" (W-2, 1099s, K-1s, etc.) each year, alleging that taxable-activity-related payments were made to those Americans. Indeed, pretty nearly EVERY work- or investment-related payment made to almost EVERY American during the course of EVERY year will be alleged to be connected with the exercise of a federal privilege (and thus to be taxable) by means of one of these instruments-- including payments which are NOT so related, and thus are NOT taxable.

Creating these information returns in connection with

every payment, and leaving the correction of those which are erroneous to the payee at the end of the year, has become the default procedure of most American businesses, thanks to a relentless tax agency campaign to encourage just such behavior, conducted over the decades. (Although this campaign includes strenuous efforts to conceal the legal import of information returns from those who create them, everyone is technically responsible for knowing such things.)

Obviously, any allegations on an information return-- as to both an amount paid, and its legal character-- are either correct, or incorrect. If the allegations are correct, it can only be because several other things are true, including that the American being testified about on the information return has voluntarily exercised a taxable privilege, and thereby voluntarily subjected himself or herself to the requirements of the relevant internal revenue laws. Submitting tax returns acknowledging such payments (and paying the resulting tax, of course) are among those requirements (which, arising as they do from a voluntary agreement, need not be published in the federal register, or conform to certain OMB provisions, etc.).

However, if those allegations are INCORRECT, a failure to answer them-- by introducing correcting testimony-- is to let them stand as the established facts-- *and thus to accept the same legal obligations that would arise if they WERE true*-- which include the requirements to file appropriate returns as noted above (and to pay the tax for which one is, by those unchallenged allegations, considered made liable). The law provides a means for introducing correcting testimony: **The filing of an accurate and proper tax return.** Thus, whether the allegations of others made on information returns are correct or incorrect, nothing but harm can result from a refusal to respond with a tax return.

So why would anyone refuse to file one?

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The only reason I know of is that, decades ago, the idea arose in certain circles that the mere act of signing a tax return-- without regard to what is attested-to thereon-- performs a magical transformation of the signer into an entity whose every receipt is theoretically taxable. (The transformation must be imagined to be retroactive, by the way, as a return deals with events which have already transpired.) This notion, which is harbored even by those who will acknowledge that no language actually exists declaring such a thing to be true, draws primarily from two key misunderstandings of the law for its sustenance.

First, being ignorant of the "information return" mechanism in connection with which the use of a tax return for rebuttal arises, and therefore imagining the form's only use to be the acknowledgment of "income", those suffering from this notion conclude that to use the form is to invariably and necessarily assert (admit) that one is among those who **MUST** complete such a form-- that is, one who must acknowledge the receipt of "income"-- even when this is not true.

Intertwined with this assumption by those who view a tax return as a diabolical instrument-- and reflected by their disinterest in the actual content of the testimony submitted by way of the form-- is a belief that receipts acquire "income" taxable status because of who receives them (or, in variations on this misunderstanding, where the recipient is when receiving them, or the recipient's citizenship). In reality, neither of these notions is true in the least respect-- receipts which are "income" taxable are so only because of the activity in connection with which they are received. (For instance, that part of the president of the United State's earnings which is taxable is not so because he's president, or where he lives or works, etc., but because it is paid to him as a result of his activity as president. *"...the term gross income includes... ...in the case of the President of the United States... ...the compensation received as such."* If the president were to take a night job at a 7-Eleven just down Pennsylvania Avenue from the White House, his

earnings from THAT job would NOT be taxable, even though he remained president and continued to be paid taxable compensation as such.) Further, nothing on a typical tax return automatically indicates or establishes the citizenship of the filer.

A complete forensic analysis of this "diabolical instrument" notion makes for a fascinating study, but it is beyond the scope of the current observation. It is sufficient to establish that this fear of signing a return is misconceived, and, more, extremely counter-productive. Earlier, I used the term "pernicious", and this is why: Whatever may be the individual motives of those who promote and embrace this fear, the fact is **the only interest served by a failure to file a tax return in the face of erroneous allegations of "income" paid is that of the government--** which is thus left free to treat the allegations on every information return as established facts; to calculate and demand taxes due as a consequence; and to consider itself on solid legal ground while doing both.

Simply put, there is nothing that can be done by an American about whom an erroneous information return has been created that is more contrary to his or her interests than not filing in response-- other than signing an erroneous return as well, and converting the presumptive evidence of the information return into established facts in the eyes of the law.

(I'll take advantage of this moment to briefly address another myth hindering those who wish to testify truthfully, but are discouraged in the face of complicated fears: Nothing anyone signs, or has signed, has the legal effect of making one's receipts "income", and thus taxable, when they otherwise are not; or of functionally compromising or contradicting the testimony ultimately appearing on a return. This includes W-4s, Social Security number applications, "employer identification number" applications, etc..

Each such signature may give color to presumptions about subsequent earnings, but nothing more than presumptions-- all of which are definitively resolved by the

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timely execution of an annual return. The only exceptions would be other instruments executed within the context of the revenue laws, explicitly declaring one's receipts to represent "income"-- either directly, or by declaring them to be "wages", or consequent to "trade or business" activity, etc.; and even such exceptions would do no more than create a conflict to the extent that they were out of harmony with the testimony on a subsequent return.)