

from

Was Grandpa Really a Moron?

Critical Inquiries for a New American Century

by

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**There IS A Law By Which Any Person Can Become Liable
For The "Income" Tax, And This Is How It Works**



TO BEGIN WITH:

- There is a tax imposed on "income" in excess of the current exemption amount (as measured by the dollar value involved). What "income" is, and whether or not one actually received any, is irrelevant to this fact. There IS something called "income" which IS taxed. See the portions of The Revenue Act of 1938 pasted below, for instance. The rates, and various other aspects of the tax, have periodically been modified by individual enactments since this original enactment, the product of which are currently reflected in Sections 1, 61, 63, 6001, 6011(a), 6012(a) and 6065 of the IRC of 1986:

AN ACT

To provide revenue, equalize taxation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles

and sections according to the following Table or Contents, may be cited as the "Revenue Act of 1938":

SEC. 11. NORMAL TAX ON INDIVIDUALS.

There shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax of 4 per centum of the amount of the net income in excess of the credits against net income provided in section 25.

SEC. 12. SURTAX ON INDIVIDUALS.

(a) DEFINITION OF "SURTAX NET INCOME".—As used in this section the term "surtax net income" means the amount of the net income in excess of the credits against net income provided in section 25 (b).

(b) RATES OF SURTAX.—There shall be levied, collected, and paid for each taxable year upon the surtax net income of every individual a surtax as follows: (a steeply graduated incremental tax rate table follows, up to a top marginal rate of 75%)

SEC. 21. NET INCOME.

"Net income" means the gross income computed under section 22, less the deductions allowed by section 23. For definition of "adjusted net income", see section 13 (a); for definition of "special class net income", see section 14 (a).

SEC. 22. GROSS INCOME.

(a) GENERAL DEFINITION.—"Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. In the case of Presidents of the United States and judges of courts of the United States taking office after June 6, 1932, the compensation received as

There IS A Law By Which Any Person Can Become Liable...

such shall be included in gross income; and all Acts taxing the compensation of such Presidents and judges are hereby amended accordingly.

SEC. 51. INDIVIDUAL RETURNS.

(a) REQUIREMENT.—The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual who is single or who is married but not living with husband or wife, if—

(A) Having a net income for the taxable year of \$1,000 or over; or

(B) Having a gross income for the taxable year of \$5,000 or over, regardless of the amount of the net income.

(Etc., etc., covering the usual categories familiar to all...)

SEC. 903. EFFECTIVE DATE OF ACT.

Except as otherwise provided, this Act shall take effect upon its enactment.

[Received by the President, May 16, 1938.]

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

- There is also a law saying that anyone who has met the foregoing qualification (of the receipt of more than the current exemption amount of "income" dollars) must file an accurate and honest return-- with any appropriate

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accompanying forms or instruments-- reflecting this fact.

- Those who are actually capable of meeting the foregoing qualification (which is to say, those who ACTUALLY HAVE engaged in taxable activity resulting in the receipt of more than the current exemption amount of "income" dollars) HAVE VOLUNTARILY ELECTED TO MAKE THEMSELVES SUBJECT TO THIS REQUIREMENT AS PART OF THE PROCESS OF ENGAGING IN THAT ACTIVITY.
- The execution of an accurate and honest return includes appropriate self-assessment (thus possibly creating a liability) and remittance of the resulting amount of tax (if any).

It's that simple: There is no personal liability for John Doe specified in the law. BUT IF JOHN MEETS THE FOREGOING QUALIFICATIONS, HE IS OBLIGED TO DO SEVERAL THINGS, THE CONSEQUENCE OF WHICH IS THE CREATION OF A PERSONAL LIABILITY. That is the law that makes individual Americans liable for the tax, and how it works.

Now I know some are saying to themselves, *"AHA! I don't meet the foregoing qualifications! Therefore, there's no requirement for ME to file a return!"* Read on...

Here is the kicker:

- Sworn allegations on an "information return" (such as a W-2, 1099 or K-1) DECLARING that someone has received more than the exemption amount of "income" (and therefore meets the foregoing qualifications) WILL BE PRESUMED TRUE BY DEFAULT.
- Therefore, unless and until such allegations-- EVEN WHEN THEY ARE ERRONEOUS-- are formally and properly answered as provided for by law, they will be taken as imposing an obligation to file an honest and

accurate return, and they will support civil and criminal penalties (as well as the presumptive assessment of a tax based on the unanswered "information return" testimony) for a failure to do so.

And here is the somewhat ironic aspect to it all:

- The formal and proper means for answering (and, if appropriate, correcting) allegations that one meets the foregoing qualifications IS THE FILING OF AN HONEST AND ACCURATE RETURN.

The Revenue Act of 1862, Section 93:

"And be it further enacted,...that any party, in his or her own behalf,...shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue,...the amount of his or her annual income,... liable to be assessed,... and the same so declared shall be received as the sum upon which duties are to be assessed and collected."

Thus, even someone who DOESN'T actually "meet the foregoing qualifications", but who is declared to do so by someone else by way of an "information return", is constructively obliged to file a return.

(The return DOESN'T have to be a "Form 1040", by the way, although fears about hidden and harmful consequences of using such a form are unsupported by evidence... Any alternative DOES have to meet the "form and manner" specifications though, which means it must be legally identical to a 1040, while being a whole lot more trouble to produce.)

To those who might protest that it's just not right, and they shouldn't have to do ANYTHING when they didn't really have "income", I would say, *"I couldn't agree more. Nor could Congress, it would appear, since it has provided for civil action*

Was Grandpa Really a Moron?

*against those who produce bogus "information returns", codified
at 26 USC § 7434..."*