

First Printing Errata

The excerpt from Adam Smith's 'Wealth of Nations' on pages 2 and 3 lacks a citation. It is from Book V, Chapter II, Article IV. My thanks to Matt Beer for bringing this to my attention.

The Legislative Attorney with the Library of Congress quoted on page 5 is incorrectly identified as John R. Lackey. The gentleman's name is actually John R. Luckey. My thanks to Sue Kennedy for bringing this to my attention.

The cite from *Flint v. Stone Tracy* on page 8 includes "(licensed)" between 'certain' and 'occupations', but should not. (The error doesn't affect the cite's meaning or application). Corrected, the cite reads: *"Excises are taxes laid upon the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain occupations and upon corporate privileges; the requirement to pay such taxes involves the exercise of privilege."* My thanks to Ken Grubaugh for bringing this to my attention.

The citation from the case of *Lucas v. Earl* on page 12 is incorrectly attributed to the U.S. Supreme Court. The language cited actually belongs to the Ninth Circuit court, and is included in the [Supreme Court case summary](#). The distinction is immaterial from the standpoint of the cite's utility, as the Supreme Court left its key point-- that there is a difference between what is received, and what is 'derived' from what is received (and that the law specifically addresses itself only to the latter)-- unchallenged. The Supremes reversed the Ninth, but simply because the higher court disagreed with the lower about at what point that derivation could be considered as consummated. It is unclear whether 'income' was being used by either court as the common word or the (by then) Constitutional term "income", but the issue of

whether Earl's receipts qualified as the latter was not addressed by the Supreme Court.

In the transcription of Section 93 of The Revenue Act of 1862 on pages 14 and 167, the last word of the section should be "collected", rather than "declared".

The second quote on page 17 is from a subsequent U.S. Supreme Court summary of the Pollock ruling, not from that ruling itself, as might be imagined from the construction of that page.

The Supreme Court language cited as *So. Pacific v. Lowe* on page 23 should be cited as *Stanton v. Baltic Mining Co*, 240 U.S. 103 (1916)

The reference to *So. Pacific v. Lowe* on pages i and 24 should read, "...for instance, the court acknowledges," (rather than says). The quoted language is actually from the plaintiff's argument in the lower court (*So. Pacific v. Lowe*, 238 F 847 U.S. District Court S.D.N.Y. (1917)), in whose favor the Supreme Court ruled. In so doing, the court put the same thought in different words, *"We must reject in this case, ... the broad contention submitted in behalf of the government that all receipts- everything that comes in- are income within the proper definition of the term 'gross income,'..."* My thanks to Michael Olsen for bringing this to my attention.

Having decided that the last page of 'The Plot Thickens' (page 53) would benefit from a few additional observations, I have modified it for subsequent editions as follows:

"The existence of the Classification Act may have helped congress feel excused from the necessity of greater clarity in the 1928 act and the several similar revenue acts that

succeeded it. After all, though much better concealed under the new protocol, the "income" derived from "compensation" (as defined in the Classification Act) still amounts to the value of every dollar paid as such "compensation". Although the Classification Act of 1923 was repealed in 1949, its qualifying effect was incorporated into the Internal Revenue Code of 1939, which is, as we will discuss thoroughly in a little while, nothing more than a representation of such statutes.

This effect carried over into the IRC's of 1954 and 1986 insofar as they merely restate relevant elements incorporated in the 1939 version. It is particularly important in the modern Section 61, '*Gross Income Defined*', wherein "*compensation for services*" is listed as a specific "*item of income*" and its misleadingly ambiguous distinction from "*income derived*"; seen in the 1921 version, is restored. The restoration is accompanied by a notation to the effect that the reconstruction of the 1928 language (which the 1939 code section duplicated) represents no substantial change in its meaning. We will explore these "codes" in depth as we proceed."

The language cited from the Montello ruling on page 55 (which is misspelled as "Montillo") should read: "*[Including] is the participle of the word 'include,' which means,... (1) 'to confine within something; hold as in an inclosure; inclose; contain.'* (2) '*To comprise as a part, or as something incident or pertinent; comprehend; take in;...*'"

The first sentence in the Russello cite on page 59 is actually from *Keene Corp. v. United States*, 508 U.S. 200 (1993): "*Although some of the provisions surrounding 1500 use the phrase "jurisdiction to render judgment," 1500 speaks of "jurisdiction," without more; **this fact only underscores the Court's duty to refrain from reading into the statute a phrase that Congress has left out.***"

The section identified as 3212(e)(2) on page 60 should be 3121(e)(2).

Section 22(a) of the 1939 IRC is derived from the revenue act of 1938, rather than that of 1928, as is stated on page 69.

The dissections of the FICA and FUTA statutes on pages 77, 78, 79 and 80 fail to emphasize, as they should, that the "income" tax imposed under those statutes applies only to the performance of "service" (see p. 52, The Classification Act of 1923) within United States possessions and territories; or "service" performed outside of those areas if by a citizen or resident of one of those places, and if for an "American employer" (as defined in Section 3121(h)).

The last paragraph on page 113 can be misunderstood to suggest that any statute lacking an associated regulatory scheme has no force. A dependency of that sort is only true of statutes which specifically create it for themselves by their own language, such as in the example provided immediately before that paragraph.

Material on page 138 suggests that 1099's are not created and submitted by the 'payer' as sworn affidavits. This is incorrect. The 1096's by which 1099's are transmitted to the government attest to the completeness and accuracy of the associated 1099's under penalty of perjury, just as do the W-3's by which W-2's are similarly transmitted.

On page 173, the citation of 26 USC 6402(a) includes a reference to "...subsections I, (d) and (e)...". This should read "...subsections (c), (d) and (e)...".

On page 174, the identified portions of section 6401 modified by the Current Tax Payment Act of 1943 should include paragraph (c).

The discussion of 'Notices of Deficiency' in 'About 1040's, And Claiming Refunds' neglects to point out that such notices, in addition to the other limitations observed, have the establishment of the "taxpayer" status of their target as a prerequisite to their applicability, ...

...and finally, the last paragraph on page 184 has been rewritten for subsequent editions in the interest of clarity:

"...

with respect to such issue.

Any 'proceeding' involving a non-"taxpayer" will have that status (as opposed to "taxpayer" status) at its heart, in the form of conflicting assertions regarding the nature of his or her earnings. For as long as that contest is sustained, a non-"taxpayer" can take advantage of these provisions (having appropriately stipulated that no admissions are being made thereby) while neutralizing or defeating the factual allegations supporting the argument against them. With the graceful symmetry of judo, once these provisions are no longer available, it is because they are also no longer needed."