

Secretary Henry M. Paulson Jr. --- May 10, 2007 Certified mail  
Department of the Treasury ----- 7006 0810 0000 7191 9777  
1500 Pennsylvania Avenue NW  
Washington, D.C. 20220  
Fax: (202) 622-6415

Roberto Gonzales, Attorney General --- May 10, 2007 Certified mail  
U.S. Department of Justice ----- 7006 0810 0000 7191 9784  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

**Urgent: Response required from Mr. Paulson and Mr. Gonzales.**

Copies to:

President George W. Bush, President of the United States,  
Judge Gordon Quist, U.S. District Court for the Western District of Michigan,  
Court of Appeals, 6th Circuit, Cincinnati, Ohio  
Mark Everson, Commissioner Internal Revenue Service,  
1111 Constitution Ave. N.W.  
Washington, D.C. 20224

From:  
Charles F. Conces  
9523 Pine Hill Dr.,  
Battle Creek, Mich. 49017

**COMPREHENSIVE REPORT ON RESEARCH OF CHARLES F. CONCES**  
**and**  
**CONSTRUCTIVE NOTICE OF FRAUD TO THE SECRETARY OF THE**  
**TREASURY, THE ATTORNEY GENERAL, THE COURTS, TO THE**  
**DEPARTMENT OF JUSTICE, AND TO THE PUBLIC**  
**Part One**  
**Written by Charles F. Conces**

This report is the most comprehensive report on the research of Charles F. Conces, which is the result of approximately 8 years of intensive research. The report is broken into approximately 6 parts in order to address each issue in an understandable format without being unduly long in any one part.

The Secretary of the Treasury is primarily responsible for fraudulent activities in the Internal Revenue Service and the Attorney General is primarily responsible for the fraudulent activities of persons in the Department of Justice. The United States Sixth Circuit Court is primarily responsible for fraud acceded to by District Court judges.

This is also a Constructive Notice to George W. Bush, President of the United States, the 6th Circuit Appeals Court in Cincinnati, the U.S. District Court of the Western District of Michigan, the Department of Justice, the Secretary of the Treasury, Mark Everson, Commissioner of the Internal Revenue Service and to the public that the laws are being deliberately misapplied by certain persons in the government and such fraud is being deliberately concealed from the public.

As shall be shown, the Constitutional prohibition against any direct un-apportioned tax is still in full force and effect and the government can exercise only those powers delegated to it by the Constitution. Affidavits are supplied to establish the circumstances of the various documents and to verify authenticity as far as practicable.

***Constructive Notice: Notice arising by presumption of law from the existence of facts and circumstances that a party had a duty to take notice of... notice presumed by law to have been acquired by a person and thus imputed to that person. (Black's Law Dictionary, Seventh Edition)***

### **Legal Evidence Of Law In Courts**

***Title 1, Section 204 (a) United States Code. - Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements***

***"In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States -***

***"The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included:***

*Provided, however, That whenever titles of such Code shall have been enacted into positive law, the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States."*

Title 26 of the USC has not been enacted into positive law and most likely never will be made into positive law because of the constitutional prohibition against direct un-apportioned taxes. Consequently, the laws in question reside in the Statutes At Large, and must be produced for the record. The Department of Justice has not provided any evidence of law by citing Statutes At Large as legal evidence of law. The burden of proof rests on the DOJ if they claim that laws in 26 USC have been violated.

#### TITLE 1--GENERAL PROVISIONS

##### CHAPTER 2--ACTS AND RESOLUTIONS; FORMALITIES OF ENACTMENT; REPEALS; SEALING OF INSTRUMENTS

Sec. 112. Statutes at Large; contents; admissibility in evidence

The United States Statutes at Large shall be legal evidence of laws, concurrent resolutions, treaties, international agreements other than treaties, proclamations by the President, and proposed or ratified amendments to the Constitution of the United States therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

All parties in litigation are entitled to know the findings and conclusions of the Court, and when the Court acts to conceal or suppress the information detrimental to the government's case, as was the case in USA vs. Charles Conces, case no. 1: 05 CV 0739, the judge commits an act of fraud and violates his Oaths of Office.

*McNally v. U.S.*, 483 U.S. 350, 371-372, *Quoting U.S. v Holzer*, 816 F.2d. 304, 307: *"Fraud in its elementary common law sense of deceit... includes the deliberate concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public,... and if he deliberately conceals material information from them he is guilty of fraud."*

*U.S. v. Prudden*, 424 F.2d. 1021; *U.S. v. Tweel*, 550 F. 2d. 297, 299, 300 (1977):  
*Silence can only be equated with fraud when there is a legal and moral duty to speak or when an inquiry left unanswered would be intentionally misleading. We cannot condone this*

*shocking conduct... If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately.*

5 USC 552 also requires full disclosure by the government. The DOJ lawyers not only lied repeatedly throughout the case, but also refused to disclose material facts in this case that would have caused dismissal. They had the duty of full disclosure under the laws of the United States. Certain officials of the Department of Justice were complicit in concealing certain facts, namely, Margaret Chiara, Michael Raum, Thomas Curteman, jr., Michael Shiparski, Donald Davis, and possibly other unknown employees of the Department of Justice

The District Court had the duty to notice the case precedence cited by Charles Conces, but instead ignored all case rulings that favored Conces and that damaged the government's case. This was a violation of the judges' oath to be fair and impartial. **Beaty v. United States, 937 F.2d 288 (6th Cir. 1991)** The District Court denied every motion of Charles Conces, even though such motions were supported by the Constitution, laws, regulations, and precedence decisions. Judge Quist refused to provide the findings and conclusions on issues of fact and law.

**FEDERAL MARITIME COMMISSION v. SOUTH CAROLINA STATE PORTS AUTHORITY et al.** certiorari to the united states court of appeals for the fourth circuit No. 01-46. Argued February 25, 2002--Decided May 28, 2002: *The parties are entitled to know the findings and conclusions on all of the issues of fact, law, or discretion presented on the record.* (Underline emphasis)

*"A central tenet of our republic—a characteristic that separates us from totalitarian regimes throughout the world—is that the government and private citizens resolve disputes on an equal playing field in the courts. When citizens face the government in the federal courts, the job of the judge is to apply the law, not bolster the government's case."* **Beaty v. United States, 1991.CO6.42163** <<http://www.versuslaw.com>> 32; 937 F.2d 288 (6th Cir. 1991).

Judge Gordon Quist refused to apply the law, i.e., *Title 1, Section 204 (a) United States Code. - Codes and Supplements as evidence of the laws of United States.* Judge Quist also

refused to apply 5 USC 552, full disclosure by the Department of Justice attorneys, i.e., that would show that Michael Raum had falsified documents by falsely stating that he had gotten authorizations for the civil suit, required under 26 USC 7401 through 7408. The DOJ attorney for Appeals, Gretchen Wolfinger, admitted that Conces had correctly stated that the DOJ had claimed to have gotten authorizations in the complaint and amended complaint, but incredibly states that Conces has no proof! Courts have ruled that the defendant does not have to prove a negative; but can merely make a negative averment and the plaintiff must bring forth his proofs for his claim.

### **Proposed Default**

Charles F. Conces, hereby proposes that the Attorney General and Secretary of the Treasury order that the Department of Justice answer the following questions, in order to avoid a Notice of Default being placed on the public record concerning the following issues. Full disclosure is required by 5 USC 552. The public record can be used as evidence in any court under the rules of federal evidence.

1. Does the Dept. of Justice admit that Title 26 of the U.S.C. has not been enacted into positive law?
2. Does the Dept. of Justice admit that the code sections of Title 26 cannot be used as legal evidence of law unless said sections are first passed into positive law by Congress?
3. Does the Dept. of Justice admit that the Statutes at Large are the only legal evidence of law for Title 26?
4. Does the Dept. of Justice admit that the Department of Justice attorneys presented no Statutes at Large as legal evidence of law in the case of USA v. Charles Conces, case no. 1: 05 CV 0739?
5. Does the Dept. of Justice admit that it is illegal to cite code sections of Title 26 as legal evidence of law in a court of law, without providing the equivalent Statute at Large?

6. Does the Dept. of Justice admit that the only delegate of the Secretary of the Treasury and/or the Attorney General that can authorize the commencement of a civil suit is the "appropriate ATF agent"? If there are any other such delegates, please list them.

7. Does the Dept. of Justice admit that Michael Raum, the lead attorney for the Department of Justice in the case of USA v. Charles Conces, case no. 1: 05 CV 0739, falsified documents, i.e., the Complaint and Amended Complaint, in stating that authorizations for a civil suit against Charles Conces had been obtained by the Department of Justice from the Secretary of the Treasury and from the Attorney General as required by 26 USC 7401 through 7408?

8. Does the Dept. of Justice admit that Thomas Curteman, jr., Michael Shiparsky, Margaret Chiara, and/or Donald Davis, all agents of the Department of Justice, did cover up the wrongdoing and falsification of documents by Michael Raum in the matter of 26 USC 7401 through 7408 in the case of USA v. Charles Conces, case no. 1: 05 CV 0739?

Charles F. Conces, hereby demands that the Department of Justice answer these questions under full disclosure within a period of 20 days of receipt of these questions to prevent the filing of this Notice on the public record. If no response is received within that time period, Charles F. Conces will file this Notice on the public record, along with an affidavit that the D.O.J. has not responded and thus defaulted. It will be construed as legal evidence of fraud if the Secretary of the Treasury or the Attorney General do not respond.

Signature: \_\_\_\_\_

Printed Name: Charles F. Conces

### **Exhibit 1**

<http://uscode.house.gov/codification/legislation.shtml>

Codification Legislation  
Office of the Law Revision Counsel

What Is Positive

## Law Codification?

Positive law codification is the process of preparing and enacting, one title at a time, a revision and restatement of the general and permanent laws of the United States.

Because many of the general and permanent laws that are required to be incorporated into the United States Code are inconsistent, redundant, and obsolete, the Office of the Law Revision Counsel of the House of Representatives has been engaged in a continuing comprehensive project authorized by law to revise and codify, for enactment into positive law, each title of the Code. When this project is completed, all the titles of the Code will be legal evidence of the general and permanent laws and recourse to the numerous volumes of the United States Statutes at Large for this purpose will no longer be necessary.

Positive law codification bills prepared by the Office do not change the meaning or legal effect of a statute being revised and restated. Rather, the purpose is to remove ambiguities, contradictions, and other imperfections from the law.

### About the Office and the United States Code

The Office of the Law Revision Counsel of the U.S. House of Representatives prepares and publishes the United States Code pursuant to section 285b of title 2 of the Code. The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States.

The Code does not include regulations issued by executive branch agencies, decisions of the Federal courts, treaties, or laws enacted by State or local governments. Regulations issued by executive branch agencies are available in the Code of Federal Regulations. Proposed and recently adopted regulations may be found in the Federal Register.

Certain titles of the Code have been enacted into positive law, and pursuant to section 204 of title 1 of the Code, the text of those titles is legal evidence of the law contained in those titles. The following titles of the Code have been enacted into positive law: 1, 3, 4, 5, 9, 10, 11, 13, 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 40, 44, 46, and 49.

**Positive law.** "Law actually and specifically enacted or adopted by proper authority for the government of an organized jural society. Black's Law Dictionary 5th Edition

**Prima facie.** "At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary." Black's Law Dictionary 5th Edition

## Exhibit 2

Letter by Cynthia J. Mills, disclosure officer:

## End Of Part 1

## Part 2

### The Constitution

STATE OF RHODE ISLAND v. COM. OF MASSACHUSETTS, 37 U.S. 657 (1838):

*"The government of the United States may, therefore, exercise all, but no more than all the judicial power provided for it by the constitution." 37 US 657, 672. (Underline emphasis)*

Murdock vs. Com. of Penn., 319 US 105, at 113; 63 S Ct at 875; 87 L Ed at 1298 (1943):

*"A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution."*

*"Nothing can be clearer than that what the constitution intended to guard against was the exercise by the general government of the power of directly taxing persons and property within any state through a majority made up from the other states." Pollock vs. Farmers' Loan and Trust Co. on original intent, 157 US 429, 582 (1895).*

The Constitution of the United States prohibits a direct un-apportioned tax in two places: Article 1, section 2, clause 3 and Article 1, section 9, clause 4. The following cases prove that this prohibition remains in full force and effect. The Internal Revenue Service falsely states that the Constitution and the 16th Amendment authorize a tax on every individual. The following cases show that such claim is false and fraudulent.



## Direct and Indirect Taxes

Knowlton vs. Moore, 178 US 41, 47 (1900): *"Direct Taxes bear upon persons, upon possession and the enjoyment of rights";*

FLINT v STONE TRACY, 220 US 107, 151 - 152 (1911): *"Duties and imposts are terms commonly applied to levies made by governments on the importation or exportation of commodities. 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.' Cooley, Const. Lim. 7th ed. 680."*

The Code of Federal Regulations cites direct and indirect taxes in 19 CFR 351.102  
Definitions:

*Direct tax. "Direct tax" means a tax on wages, profits, interests, rents, royalties, and all other forms of income, a tax on the ownership of real property, or a social welfare charge.*

*Indirect tax. "Indirect tax" means a sales, excise, turnover, value added, franchise, stamp, transfer, inventory, or equipment tax, a border tax, or any other tax other than a direct tax or an import charge.*

Brushaber vs. Union Pacific, 240 US 1, 12 (1916), on *original intent*, *"... the all embracing character of the two great classifications, including, on the one hand, Direct Taxes subject to apportionment, and on the other, excises, duties, and imposts subject to uniformity, held the law to be unconstitutional in substance for these*

*reasons: concluding that the classification of Direct was adopted for the purpose of rendering it impossible to burden by taxation accumulations of property, real or personal, except subject to the regulation of apportionment, ..." (Underline emphasis)*

Corporation Excise Tax of 1909 was constitutionally an Indirect Tax  
U.S. vs. Whitridge, 231 US 144, 147 (1913): *"As repeatedly pointed out by this court, the corporation tax law of 1909... imposed an excise or privilege tax, and not in any sense a tax upon property or upon income merely as income."*;

MERCHANTS' LOAN & TRUST CO. v SMIETANKA, 255 US 509, 518 - 519 (1921):  
*"The Corporation Excise Tax Act of August 5, 1909, was not an income tax law, but a definition of the word 'income' was so necessary in its administration..."*

*"It is obvious that these decisions in principle rule the case at bar if the word 'income' has the same meaning in the Income Tax Act of 1913 that it had in the Corporation Excise Tax Act of 1909, and that it has the same scope of meaning was in effect decided in Southern Pacific v Lowe..., where it was assumed for the purpose of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When we add to this, Eisner v Macomber...the definition of 'income' which was applied was adopted from Stratton's Independence v Howbert, supra, arising under the Corporation Excise Tax Act of 1909... there would seem to be no room to doubt that the word must be given the same meaning in all the Income Tax*

Acts of Congress that was given to it in the Corporation Excise Tax Act, and that what that meaning is has now become definitely settled by decisions of this Court."  
(Underline emphasis)

EISNER v MACOMBER, 252 US 189, 205 - 206 (1920):

*"The 16<sup>th</sup> Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted."*

*"As repeatedly held, this did not extend the taxing power to new subjects..."*

*"...it becomes essential to distinguish between what is and is not 'income', as the term is there used.."*

*"...we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909...(Stratton's and Doyle)"*

SOUTHERN PACIFIC CO. v. LOWE, 247 U.S. 330, 335 (1918): *"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909, the broad contention submitted on behalf of the government that all receipts, everything that comes in, are income within the proper definition of the term 'gross income'. Certainly the term 'income' has no broader meaning in the Income Tax Act of 1913 than in that of 1909, and for the present purpose we assume there is no difference in its meaning as used in the two acts."*

FLINT v. STONE TRACY CO., 220 U.S. 107, 162 (1911): *“In the case at bar we have already discussed the limitations which the Constitution imposes upon the right to levy excise taxes, and it could not be said, even if the principles of the 14th Amendment were applicable to the present case, that there is no substantial difference between the carrying on of business by the corporations taxed, and the same business when conducted by a private firm or individual. The thing taxed is not the mere dealing in merchandise, in which the actual transactions may be the same, whether conducted by individuals or corporations, but the tax is laid upon the privileges which exist in conducting business with the advantages which inhere in the corporate capacity of those taxed, and which are not enjoyed by private firms or individuals.”* (Underline emphasis)

Stratton's Independence, 231 US 399, 417 (1913): *“Evidently Congress adopted the income as the measure of the tax to be imposed with respect to the doing of business in corporate form because it desired that the excise should be imposed, approximately at least, with regard to the amount of benefit presumably derived by such corporations from the current operations of the government. In Flint v. Stone Tracy Co. 220 U.S. 107, 165, 55 S. L. ed. 107, 419, 31 Sup. Ct. Rep. 342, Ann. Cas. 1912 B. 1312, it was held that Congress, in exercising the right to tax a legitimate subject of taxation as a franchise [231 U.S. 399, 417] or privilege, was not debarred by the Constitution from measuring the taxation by the total income, although derived in part from property which, considered by itself, was not taxable.”* (Underline emphasis);

Sims v. Ahrens et al., 271 SW Reporter at 730: *"Income is necessarily the product of the joint efforts of the state and the recipient of the income, the state furnishing the protection necessary to enable the recipient to produce, receive, and enjoy it, and a tax thereon in the last analysis is simply a portion cut from the income and appropriated by the state as its share..."* (Underline emphasis)

Redfield v. Fisher, 135 Or. 180, 292 P. 813, 819 (Ore. 1930): *"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individual's rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed."* (Underline emphasis)

Doyle v. Mitchell Bros., 247 U.S. 179, 183 (1918): *"An examination of these and other provisions of the Act (Corporation Excise Tax Act of August 5, 1909) make it plain that the legislative purpose was not to tax property as such, or the mere conversion of property, but to tax the conduct of the business of corporations organized for profit upon the gainful returns from their business operations."* (Underline emphasis)

*"Thus, in the matter of taxation, the constitution recognizes the two great classes of direct and indirect taxes, and lays down two rules by which their imposition must be governed, namely, the rule of apportionment as to direct taxes, and the rule of uniformity as to duties, imposts, and excises."* Pollock, 157 US 429, 556 (1895);

STANTON v BALTIC MINING CO., 240 US 103, 112 -114 (1916): *"Not being within the authority of the 16<sup>th</sup> Amendment, the tax is therefore, within the ruling of Pollack... a direct tax and void for want of compliance with the regulation of apportionment."; (Underline emphasis)*

STANTON v BALTIC MINING CO., 240 US 103, 112 -114 (1916): *"...it was settled in Stratton's Independence... that such tax is not a tax upon property... but a true excise levied on the result of the business..." (Underline emphasis);*

Jerome H. Sheip Co. v. Amos, 100 Fla. 863, 130 So. 699, 705 (1930): *"A man is free to lay hand upon his own property. To acquire and possess property is a right, not a privilege ... The right to acquire and possess property cannot alone be made the subject of an excise .... nor, generally speaking, can an excise be laid upon the mere right to possess the fruits thereof, as that right is the chief attribute of ownership." (Underline emphasis);*

U.S. v. BALLARD, 535 F2d 400 (1976): *"Gross income and not 'gross receipts' is the foundation of income tax liability..." At 404, "The general term 'income' is not defined in the Internal Revenue Code." At 404, "... 'gross income' means the total sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources."*

Doyle vs. Mitchell, 247 US 179, at 183, at 185 (1918): "Whatever difficulty there may be about a precise and scientific definition of 'income'; it imports, as used here, something entirely distinct from principal or capital either as a subject of taxation or as a measure of the tax; conveying rather the idea of gain or increase arising from corporate activities." (Underline emphasis);

### 16th Amendment

Evans vs. Gore, 253 US 245, 263 (1920); "... It manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation." (Underline emphasis);

Brushaber vs. Union Pacific, 240 US 1, 12 (1916), "... the whole purpose of the Amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source..." and "...on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation." (Underline emphasis);

Peck vs. Lowe, 247 US 165, 173 (1918); "The Sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects..." (Underline emphasis)

Eisner vs. Macomber, 252 US 189, 205-207 (1920); ***"The 16<sup>th</sup> Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted."***

***"As repeatedly held, this did not extend the taxing power to new subjects..."***

***"...it becomes essential to distinguish between what is and is not 'income', as the term is there used.."***

Bowers vs. Kerbaugh-Empire, 271 US 170, 174 (1926), ***"It was not the purpose or effect of that Amendment to bring any new subject within the taxing power."*** (Underline emphasis);

Helvering vs. Edison Brothers, 8th Cir. 133 F2d 575 (1943); ***"The Treasury cannot by interpretive regulation make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress, without apportionment, tax that which is not income within the meaning of the 16th Amendment."***;

Southern Pacific vs. Lowe, 247 US 330, 335 (1918);

Butcher's Union vs. Crescent City, 111 US 746, 756 (1884);

Pollack, 157 US 429, 556, 573, 582, and 436-441 (1895), ***"No capitation, or other direct, tax shall be laid, unless in proportion to the census...."*** And,

***"As to the states and their municipalities, this (contributions to expense of government) is reached largely through the imposition of direct taxes. As to the federal government,***



*it is attained in part through excises and indirect taxes upon luxuries and consumption generally, to which direct taxation may be added to the extent the rule of apportionment allows.*”;

Flint vs. Stone Tracy, 220 US 107, 161, 165 (1911);

Coppage vs. State of Kansas, 236 US 1, 23-24 (1915), *“The court held it unconstitutional, saying: ‘The right to follow any lawful vocation and to make contracts is as completely within the protection of the Constitution as the right to hold property free from unwarranted seizure, or the liberty to go when and where one will. One of the ways of obtaining property is by contract. The right, therefore, to contract cannot be infringed by the legislature without violating the letter and spirit of the Constitution. Every citizen is protected in his right to work where and for whom he will. He may select not only his employer, but also his associates.’”*;

Truax vs. Corrigan, 257 US 312, 348 (1921);

Meyer vs. State of Nebraska, 262 US 390 (1923);

Sims vs. Ahrens, 167 Ark. 557; 271 S.W. 720, 730-733 (1925), *“The legislature has no power to declare as a privilege and tax for revenue purposes, occupations that are of common right...”* (Underline emphasis);

Taft vs. Bowers, 278 US 470, 481 (1929); *“Under former decisions here the settled doctrine is that the Sixteenth Amendment confers no power upon Congress to define and tax as income without apportionment something which theretofore could not have been properly regarded as income.”*;

Jack Cole vs. MacFarland, 337 S.W. 2d 453, 455-56 (Tenn. 1960), **"Realizing and receiving income or earnings is not a privilege that can be taxed." ... "Since the right to receive income or earnings is a right belonging to every person. This right cannot be taxed as a privilege."** (Underline emphasis)

The above cases have never been overturned and remain under "stare decisis" doctrine.

**Taxation Key, West 53 – "The legislature cannot name something to be a taxable privilege unless it is first a privilege."**

**Taxation Key, West 933 – "The Right to receive income or earnings is a right belonging to every person and realization and receipts of income is therefore not a "privilege that can be taxed".**

### **Proposed Default**

Charles F. Conces, hereby proposes that the Attorney General and Secretary of the Treasury order that the Department of Justice answer the following questions, in order to avoid a Notice of Default being placed on the public record concerning the following issues. Full disclosure is required by 5 USC 552. The public record can be used as evidence in any court under the rules of federal evidence.

1. Does the Dept. of Justice admit that the government may only exercise such powers that are provided by the U.S. Constitution?
2. Does the Dept. of Justice admit that the U.S. Constitution prohibited a direct un-apportioned tax before the passage of the 16th Amendment?
3. Does the Dept. of Justice admit that the Supreme Court rulings, listed above, have never been overturned?

4. Does the Dept. of Justice admit that the 16th Amendment did not provide any new taxing powers, as ruled "... *It manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation.*"?
5. Does the Dept. of Justice admit that the 16th Amendment did not bring any new subjects under the taxing powers of the federal government, as ruled "*It was not the purpose or effect of that Amendment to bring any new subject within the taxing power.*"?
6. Does the Dept. of Justice admit that the word "income" in the 16th Amendment is limited to the definition provided by the U.S. Supreme Court, i.e., "*conveying rather the idea of gain or increase arising from corporate activities.*"?
7. Does the Dept. of Justice admit that there was no change in the taxing powers by the passage of the 16th Amendment except for a consideration of the source, as the Supreme Court ruled; "... *the whole purpose of the Amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source...*" and "...*on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation.*"?
8. Does the Dept. of Justice admit that the word "income" is not defined in the Internal Revenue Code and that Congress cannot define the word "income"?
9. Does the Dept. of Justice admit that when agents of the government refuse to answer questions by citizens, that such refusal constitutes fraud?

Charles F. Conces, hereby demands that the Department of Justice answer the Part 2 questions under full disclosure within a period of 20 days of receipt of these questions to

prevent the filing of this Notice on the public record. If no response is received within that time period, Charles F. Conces will file this Notice on the public record, along with an affidavit that the D.O.J. has not responded and thus defaulted. It will be construed as legal evidence of fraud if the Secretary of the Treasury or the Attorney General do not respond.

Signature: \_\_\_\_\_

Printed Name: Charles F. Conces

Dated: May 10, 2007