Dear Patriot,

I believe in Miracles. You would too if you had access to all of the information that has come across my desk from many different sources. It used to be hard to be an Investigative Journalist, but not any more. With the advent of the personal computers, modems, fax machines, cellular phones, UPS, the postal service and AT&T information is pouring into this office faster than we can utilize it.

I used to barter information. If you had some bit of information I wanted I would find some information I had that you would want. We would then copy and exchange the information by fax or modem and both our banks of information would be richer.

Although I still do that on occasion, it is no longer necessary. Those who know, that I am not only interested in gathering information about the IRS, the FRB and the fraudulent acts of our government in general, but that I am also redistributing it to as many as possible as quickly as possible, are now sending me documents and other vital information just in case I don't have it. I thank you. All of you.

I had heard of the "Pink Papers," an unofficial intra-departmental report that used to circulate through the ranks of the employees of the IRS in the past, but had not seen them until recently. They were sent to me by an interested party. After reading them, I decided to see if they were still in circulation among the employees of the IRS. I made a few telephone calls to friends on the inside. They denied their existence. A few days later the "Pink Papers" was anonymously sent to me with a note attached stating that the "Pink Papers" were available only among the rebels of the Service.

I thank NOT FOR PUBLIC RELEASE for the first copy, and the anonymous donor for the copy I am making available to you.

Read it. Use it for research. Understand it. Use it in your defence. Enjoy.

Sincerely,

Albert E. Carter

*** NOT FOR PUBLIC CONSUMPTION ***

REPORT ON DEFENDING OUR TAX EXEMPT WAGES

PURPOSE:

Due to the increasing desire for revenue, our people inside the Internal Revenue Service are being advised to file tax returns for wages. This under the guise that it doesn't look equitable if we don't pay taxes on our wages, yet actively collect them from the common people. This situation is becoming more acute due to the recent unauthorized mention on National News that warnings have gone out to IRS agents who have not been filing. We have spent so much time trying to convince the general public they must pay taxes, apparently our supervisorial hierarchy have decided we must lose the one perk we get for being a parish in this society. Recognize that many of them file, solely for purposes of making themselves politically acceptable in their aspirations for higher public offices.

Our own Department Counsel (attorney) seems to be leaning toward making payment of taxes a requirement for new IRS employees, and was only minimally helpful in preparing this report. But as there are those of us who do not aspire politically nor who wish to give up our perks and pay taxes on wages like common people, we have provided this in-house report, which covers basics of just WHY you don't have to file if your income is primarily wages, WHY it is not a crime, and the basic defenses for your personal lawyer.

While I doubt anyone in the supervisorial hierarchy will risk exposure of our perks and this information to the common people, we must be prepared to protect ourselves from our own organization. With that in mind, and with some help from our legal advisors, we have prepared this unofficial intra-departmental report.

INTRODUCTION:

There are both Civil and Criminal sanctions for violations of the Internal Revenue Code, which is found in Title 26, U.S. Code. We will address the criminal side, but the elements of criminal tax evasion and civil tax fraud are identical, (See Gray v Cir., C.A.6 1983, 708 F 2d 2243, cert denied 104 S.Ct 1709) and we must remember, that government invocation of the civil penalty does not bar a criminal proceeding for the imposition of fines or imprisonment. (Spies v U.S. N.Y. 1943, 63 s Ct 364, 317 U.S. 492) Among the more common Criminal offenses for which an individual might be charged are:

1. Aiding, abetting, counselling, commanding, inducing, or procuring commission of an offense against the United States (Title 18 U.S.C. sect 2) This includes one who

contributes consciously to the commission of an offense against the provisions of the code. (See 47B CJS sec 1255 and note 33)

2. Any person who willfully attempts to evade or defeat a tax is guilty of a felony (Title 26 U.S.C. sec 7201) (See 47B CJS 1256 at note 43).

3. Any person who willfully fails to keep records required for Federal income tax purposes may be providing the Government with an indictable offense. (Title 26 U.S.C. Sec 7203 & 5603).

4. Any person required to file an income tax return who willfully fails to do so is guilty of a misdemeanor. (Title 26 U.S.C. sec 7203; Spies v U.S. N.Y. 1943, 63 S.Ct. 364) (See 47B CJS 1258 note 86.)

5. Any person who willfully fails to pay a tax required by law is guilty of a misdemeanor. (Title 26 U.S.C. sec 7203) (Sansone v U.S. Mo. 1965, 85 S.Ct. 1004, 380 U.S. 343.)

6. Any person who willfully supplies false or fraudulent information to his employer with respect to the withholding tax requirements is guilty of a punishable offense. (Title 26 U.S.C. sec 7205 as amended.) Economic Recovery Act of 1981 increased the penalty to $1,000. The Excuse that Fed. Reserve notes are <u>not</u> dollars was a valid defense (U.S. v Tissi, C.A. Mo 1979, 601 F2d 372.)

7. Any person who willfully makes and subscribes any return, statement, or other document which declares that it is made under the penalties of perjury and which such person does not believe to be true and correct as to every material matter is guilty of a felony. (Title 26 U.S.C. 7206 (1)) (See 47B CJS sec 1261 note 44)

8. Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under the Internal Revenue laws, or a return, affidavit, claim or other document, which is fraudulent or is false as to any information whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to represent such return, affidavit, claim or document is guilty of a felony. (Title 26 U.S.C. sec 7206 (2)) (See 47B CJS sec 1262)

9. A person who attempts to interfere forcibly with the administration of the Internal Revenue laws by a

federal office or employer acting in an official capacity is guilty of a punishable offense. (Title 26 U.S.C. Sec 7212 (a)) (See 47B CJS sect 1265.)

10. Revenue officers or employees who commit specific acts or omissions constitute criminal offenses. (See 47B CJS sect 1271.)

11. Taxation of Firearms, Bombs, Stills, etc. are incorporated in the tax code. (Firearms; Title 26 U.S.C. sec 5871, 5849, 5861, 5811, 5812, 5852, 5841.) (Bombs Title 26 U.S.C. 5845, 5861, 5845.) (Stills & Alcohol Title 26 U.S.C. 5601 et seq.)

The most common criminal charges we as individuals and employees of the IRS might face from those attempting to tax our wages are "Tax Evasion," and "Willful failure to file."

DEFENSE OUTLINE SUMMARY:

1. Income is not specifically defined in our manuals nor is defined in I.R.S. Code. Congress did not define it.

2. Income has always been defined by the courts as to exclude wages.

3. Therefore persons whose income (NOT WAGES) in 1992 filing singly with less than $5,900 need not file a return or pay a tax.

4. If an individual has earned dividends, interest from bank accounts, or other moneys which are less than the minimum established, ($5,900 for one filing separately and under 65 in 1992), he/she need not file, nor pay any tax. He/she is exempt, as <u>wages need not be counted.</u>

5. Make sure your supervisor is aware of the implications to his advancement if he reports you and you are forced to make this information public.

6. Make sure the prosecutor and your lawyer are both aware of the implications should the case not be *nol prossed*, as this information will become public, and the Assistant U.S. Attorney probably won't be in line for any kind of promotion for endangering the proverbial "goose" when you are found not guilty, and the information goes public to a media already promoting the tax reform.

7. If you are actually tried Criminally, stress to the Judge your reliance on the U.S. Supreme Court in not filing or paying taxes on WAGES, and cite either the

Sullivan, Bishop or Cheek case, which states that willfulness is negated if you rely on a previous decision of the U.S. Supreme Court.

8. If you are tried Civilly, have your lawyer move for "Summary Judgment", using the citations that follow or others of which he may be aware.

TAX LAW ORIGINS AND AUTHORITY

Congress has had power to lay and collect income taxes from the time of the adoption of the Constitution, (Brushaber v Union Pac. R.R.Co. N.Y. 1916, 36 S.Ct. 236, 240 U.S.1) This power was subject to the requirement that direct taxes be apportioned among the several states according to population. (Pollock v Farmers Loan and Trust Co. N.Y. 1895, 125 S.Ct 673, 157 U.S. 429) The alleged difficulty of meeting this requirement led to the adoption of the Sixteenth Amendment to the Constitution, effective Feb. 25, 1913, giving congress power to

> "lay and collect taxes on income, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration" (Evans v Gore, Ky 1920, 40 S.Ct. 550, 253 U.S. 245) (Kasey v C.I.R., C.A. 9 1972, 457 F2d 369 Certiorari denied 93 S.Ct 197, 409 U.S. 869)

It did not limit or expand the power of Congress to tax under the constitutional provisions authorizing Congress to lay and collect taxes but instead merely provided for taxation of income without apportionment. (Brushaber v Union Pac. R.R.Co. N.Y. 1916, 36 S.Ct. 236, 240 U.S. 1, 60 L.Ed 493; Simmons v U.S., CA Md 1962 308 F2d 160. Pledger v CIR CA 5, 1981, 641 F2d 287, certiorari denied 102 S.Ct. 504, 454, U.S. 964, 70 L.Ed. 2d 379)

The Brushaber court ruled that the 16th Amendment separated the source (capital) from the income (profit) permitting the collection of an indirect (excise) tax on income, but leaving the source (wages, salary, compensation, fees for service, first time commissions and capital) untouched and free of tax. If these things were to be taxed, it could only be construed as a direct tax, unquestionably in violation of the Constitution, making the entire tax on income void.

There still remains the question as to what is constitutionally allowable as "income" which can be taxed, as Congress is not constitutionally free to define "income" in any way it chooses. (Simpson v U.S. D.C. Iowa 1976, 423 F.Supp 720, reversed on other grounds, Prescott v Commissioner of Internal Revenue C.A. 561 F2d 1287) Further, the labels used do not determine the extent of the taxing power. (Simmons v U.S. C.A. Md 1962, 308 F2d 160- Richardson v U.S. C.A. Mich 1961 294 F2d

593 certiorari denied 82 S.Ct. 640, 360 U.S. 802, 7 L.Ed. 2d 549.)

To reiterate, the tax authorized under the original U.S. Constitution has not changed except as to separate the source of "income" from the income itself, permitting the collection of an indirect (excise) tax on income, by leaving the source (wages, salaries, fees for service, and first time commissions) free of tax (Brushaber supra) despite how some politicians interpret the 16th Amendment.

(Note: The Brushaber court referred to an earlier case, Pollock v Farmers Loan and Trust Co., 158 U.S. 601 (1895) which declared the Income Tax Act of 1894 unconstitutional, as it's effect would have been to leave the burden of the tax to be born by professions, trades, employments, or vacations; and in that way, what was intended as a tax on capital would remain, in substance, a tax on occupations and labor. This result the court held, could NOT have been contemplated by Congress.)

(Note: There are also the questions as to both the ratification and the constitutionality of the 16th Amendment, but neither has been ruled on by the U.S. Supreme Court and why clutter up a good defense?)

Since the general term "income" is not defined in the Internal Revenue Code, (U.S. v Ballard 535 F2d 400 (1976)) and the U.S. Supreme Court has ruled the congress may not, by any definition it may adopt, conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives it's power to legislate, and within whose limitations alone, that power can be lawfully exercised. (Eisner v Macomber, 252 U.S. 1889(1920))

Since the Rules contained in the I.R.S. Manual, even if codified in the code of Federal Regulations, do not have the force and effect of law (U.S. v Horne, C.A. Me. 1983, 714 F2d 206) and the power to promulgate regulations does not include the power to broaden or narrow the meaning of statutory provisions beyond what Congress intended, (Abbot, Procter & Paine v U.S. 1965 344 F2d 333, 170 Ct Cl 408) and regulations cannot do what Congress itself is without power to do; they must conform to the Constitution. (C.I.R. v Van Vorst, C.C.A. 1932, 59 F2d 677)

Since the ultimate appellate court is the U.S. Supreme Court, we must look to them for a definite answer on the question of conformance and affirmation of our little secret that wages are not classified as income which can be taxed.

The Court has recognized that... "it becomes essential to distinguish between what is, and what is not "income".." Eisner v Macomber, 252 U.S. 189 (1920) and determined the "..."income" as used in the statute should be given a meaning so as not to include everything that comes in, the true function of the words

"gains" and "profits" is to limit the meaning of the word "income"." (So Pacific v Lowe, 238 F 847.) (U.S.Dist Ct. S.D. N.Y. 1917); 247 U.S. 30 (1918)).

The Court determined that

> "....the definition of income approved by the Court is: The gain derived from capital, from labor, or from both combined, provided it be understood to include profits gained through sale or conversion of capital assets. " (Eisner Supra)

> "Income within the meaning of the 16th Amendment and the Revenue Act means, *gain* ....and in such connection gain means, *profit ... proceeding* from property severed from capital, however invested or employed and coming in, received or drawn by the taxpayer for his separate use, benefit and disposal" (Staples v U.S. 21 F.Supp 737 (U.S. Dist Ct ED PA, 1937)

In the case of Lucas v Earl, 281 US 111 (1930), the U.S. Supreme Court stated unambiguously that;

> "The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who has performed the services which produced the gain is without support either in the language of the Act or in the decisions of the courts construing it. Not only this, but it is directly opposed to provisions of the Act and to regulations of the U.S. Treasury Dept. which either prescribe or permit that compensation for personal services be not taxed as an entirety and be not returned by the individual performing the services. It is to be noted that by the language of the Act it is not *salaries, wages or compensation* for personal services that are to be included in gross income. That which is to be included is *gains, profits and income* **DERIVED** from *salaries, wages or compensation* for personal service.

The Court ruled similarly in Goodrich v Edwards, 255 U.S. 527 (1921) and in 1969, the Court ruled in Connor v U.S. 303 F supp 1187, that,

> "whatever may constitute income, therefore must have the essential feature of gain to the recipient. This was true when the 16th Amendment became effective, it was true at the time of Eisner v Macomber supra, it was true under sect 22 (a) of the Internal Revenue Code of 1938, and it is likewise true under sect 61 (a) of the I.R.S. Code of 1954. If there is not gain there is not income ... Congress has taxed INCOME and not compensation."

"... one does not derive income by rendering services and charging for them." (Edwards v Keith, 231 F111, 1916).

Even at the State level, we find courts following the lead of the U.S. Supreme Court,

"There is a clear distinction between profit and wages or compensation for labor. Compensation for labor cannot be regarded as profit within the meaning of the law. (Oliver v Halstead, 196 Va. 992; 86 S.E. 2d 858, 1955)

and

reasonable compensation for labor or services rendered is not profit. (Lauderdale Cemetery Assoc. v Matthews, 345 Pa. 239; 47 A. 2d 277, 280, 1946).

Since the above cases are the undisputable law with respect to what is or is not income, we find the word income does not mean all monies that come into the possession of an individual, but profit or gain FROM the money one takes in, such as interest, stock dividends, profit from an employee's labors, but not from an individual's wages, which are compensation for his labor. This means that the average person in America, who has no large investments or riches upon which he receives interest, dividends, etc, in excess of the amounts listed above (1992) but merely works for wages, has income insufficient in amount to be required to file a tax return.

HANDLING A JURY TRIAL:

While you might be better off with bench trial, which may never be tried due to the nature of the suit, there may be a time when you are tried by jury. Even if you get a jury trial that is outraged by an agent not paying taxes you cannot be condemned. Both Tax Evasion and Failure to File require "willfulness." Again we look to the U.S. Supreme Court, and find that, "The requirement of an offense committed willfully is not met, therefore if a taxpayer has relied in good faith upon a prior decision of the court." (U.S. v Bishop, 412 U.S. 346, 1973 at 2017, 93 S.Ct. 2008), and (U.S. v Sullivan, 274 U.S. 259, 263-264.)

Since any reasonably knowledgeable and intelligent person filing a return, invoking this argument MUST rely on U.S. Supreme Court's interpretation of "income" that person when brought into court may rely on the decisions of the U.S. Supreme Court to negate the element of "willfulness". Make sure those jury instructions are made to the jury, and bring them up in testimony if you like. As if this was not enough, any question in a juror's mind can be swayed in your favor with this citation:

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"Statutes levying taxes should be construed in case of doubt, against the government and in favor of the citizen." (Miller v Gearing 258 F 225).

IF HANDLING YOUR OWN DEFENSE:

Make sure to read 47B C.J.S. Section 1283 among other sources regarding parameters of jury instructions.

INITIAL DEFENSE:

1. Determine what returns you are being charged with evading or not filing, as "Income tax liability for any one year constitutes a single cause of action" (Lewis v Reynolds, 284 U.S. 281)

2. Determine whether they are beyond a statute of limitations to sue since Congress has consented to a defense to which in effect is a statute of limitations, (Lucia v U.S. C.A. Tex. 1973, 474 F2d 565) and under the Code, (Title 26 USCA sect 6502) a suit is barred when not brought within the statutory limitation period, and move to dismiss any counts which are past the statute of limitations.

3. Refuse to produce anything the government does not already have on us from payroll. We may refuse any I.R.S Summons not judicially enforced, as long as the attack is in good faith the statute we usually refer to (Title 26 USC 7210) which prescribes criminal punishment for anyone refusing to obey an Internal Revenue summons for production records, was addressed by the U.S. Supreme Court, in Reisman v Caplink, 375 U.S. 440. The court stated:

   "Non compliance is not subject to prosecution thereunder, when the summons is attacked in good faith." And by the same token, it seems that one who makes a good faith challenge to specific questions on a 1040 tax return is not subject to successful prosecution."

   The courts have also stated that

   "Broad Discretions given tax officers with regard to investigations, is for legitimate tax investigations and is not a license for official harassment of the citizenry. (U.S. v Cutter, 374 F Supp 1065.)

   While we are insiders and not merely citizenry, and will feel heat at work, we are still citizens, and any prejudice or pressure put on us can be handled. They

cannot "read our rights" while our supervisors are "talking to us" as enumerated in the Mathis Decision, No 726, May 6, 1938, 3 910 S Winterhaven F1) If no rights given us then we move to suppress the evidence gathered through conversation.

4. Prepare motion to dismiss, using this document as reference.

5. Prepare requests for Jury instructions or Requests for findings of fact and rulings of law.

6. Make sure the submitted Jury instructions contain what you want to argue in front of the Jury. (See U.S. v Watkind, Fed Case No 16.649 (3 Cranch, CC 441 U.S. 1829) as

"Counsel will not be permitted to argue before a jury questions of law not involved in the instructions asked and submitted to the court."

DISCUSSION OF SPECIFIC CHARGES AND CURRENT LAW:

Under provisions of the Internal Revenue Code, (Title 26 USCA Sec 7201), any person who willfully attempts to evade or defeat a tax is guilty of a felony (See notes 43 at C.J.S. 1256),

ELEMENTS:

The essential elements of the offense are:

a) Willfulness, (U.S. v Garbor, C.A. Fl. 1979, 607 F2d 92) means a voluntary intentional violation of a known legal duty (See 47B CJS 1256 note 45) which may be shown through consistent patterns of not reporting large amounts of income. (See 47B CJS 1256 note 46) a bona fide mistake, negligence, carelessness, or misunderstanding is not sufficient. So while intent is a necessary element of the statutory offense, (See 47B CJS 1256 Note 48) there is no requirement of a showing of evil motive beyond a specific intent to violate the law. (See 47B CJS 1256 Note 49)

b) The existence of a tax deficiency.

c) An affirmative act constituting an evasion or attempted evasion of a tax. (An intent to evade taxes is the equivalent of an intent to defraud the government. (U.S. v Miller, C.A. Cal 1976 545 F2d 1204 , certiorari denied 97 S.Ct 1549, 430 U.S. 930).

Generally, conduct which is likely to mislead or conceal is sufficient to raise an inference of an affirmative willful attempt, such as is required to constitute the offense of attempt to evade or defeat tax (See 47B CJS Sec 1256 att Note 67), and if the tax evasion motive plays any part in the conduct of the taxpayer, the offense may be made out even though such conduct may also serve other purposes, such as the concealment of other crime (CJS Spra at Note 68). Any affirmative act which the taxpayer might do where the effect and reasonable purpose would be to evade or defeat the tax will constitute the offense (CJS Supra at Note 69)

The filing of a false return is an independent crime and also one aspect of the more comprehensive offense considered here (CJS Supra at Note 70), and the crime is complete when a fraudulent is knowingly and willfully filed with intent to evade and defeat part or all of the tax (CJS Supra at Note 71). Where the necessary intention is present, the offense may be committed not only by the filing of a false original return (CJS Supra at Note 72), but also by the filing of false amended returns, proofs, or affidavit, even though such instruments are not required to be filed (CJS Supra at Note 73). The crime may be committed by taking fraudulent deduction (CJS Supra at Note 74), as well as by fraudulently failing to report income received (CJS Supra at Note 75). When no wagering excise tax return has been filed, an individual cannot be criminally prosecuted for willfully attempting to evade or defeat the tax, notwithstanding fact that wagering taxes may be due and owing (CJS Supra at Note 75.5).

The word "willfully" when used in the Revenue Code which renders certain acts criminal, has the same meaning in the felony provisions as it does in the misdemeanor provisions. (47B CJS sect 1254 at Note 23) This word as used in the Code's criminal provisions connotates a voluntary and intentional violation of a known legal duty ((47B CJS 1254 at note 24) at Note 25) and is not equated with mere carelessness or recklessness (U.S. v Swanson C.A. Iowa 1975, 509 F 2d 1205). Even gross negligence is not sufficient to establish willfulness (47B CJS 1254 at Note 27) The willful requirement is not met if the defendant has relied on good faith on a prior decision of the U.S. Supreme Court (47B CJS 1254 at Note 28).

I.R.S. statutory offenses, where the law contains the words, "with intent to evade", the intent is material to the offense. (U.S. v Buzzo, Mich 18773, 18 Wall. 125, 21 L.Ed 418)

DEFENSES:

A) The offense is not committed unless the taxpayer has actual knowledge of the existence of the obligation and a wrongful intent to evade it. (47B CJS 1256 at Note 50)

B) The requirement of willfulness is not met if a taxpayer has relied in "good faith" on a prior decision of the U.S. Supreme Court (47B CJS 1256 at Note 51).

C) A persons mistaken belief that his method of recording income is proper is a defense (47B CJS 12566 at Note 52).

D) Reliance on the advice of counsel in a tax evasion case is not a complete defense, but only a circumstance indicating good faith which may be considered on the issue of willfulness (47B CJS 12566 at Note 55). Essential to the claim of reliance on counsel is a showing that the reliance be in good faith, and that the advice be obtained after full disclosure of all the facts to which the advice pertains (47B CJS 1256 at Note 56). There must also be a showing that the taxpayer actually relied on the advice, believing it to be correct (47B CJS 1256 at Note 57).

E) A tax return is not criminally fraudulent simply because it is erroneous; willfulness is an essential element of crime of income tax evasion. (U.S. v Garner, C.A.Fl 1979, 607 F 2d 92)

F) It is not an offense for the taxpayer so to handle his affairs, as to avoid or reduce tax liability, provided his acts are legal. Continental Oil Co. v Jones, D.C. Kohl 1939, 26 F. Supp 694, affirmed 113 F2d 557, certiorari denied 61 S. Ct. 64, 34 U.S. 687.

G) Good faith listing of three billion dependents on his W-4 was ruled proper. U.S. v Snider, 502 F 2d 645, (1974).

UNACCEPTABLE DEFENSES:

A) It is no excuse that defendant had kept no books, disclosing his income and expenses (U.S. v Zimmerman, C.Ca III 1940, 108 F2d 370, or that the income in question was derived from unlawful sources (47B CJS 1256 at Note 54).

B) Merely aggravating and daring the government to enforce the code does not create immunity from, or constitute a defense to prosecution (U.S. v Stout, C.A. III 1979, 601 F2d 325, Certiorari denied 100 s Ct 481, 444 U.S. 979.)

C) Excuse that Federal Reserve Notes are not dollars was not a valid defense (U.S. v Tissi, C.A. Mo 1979, 601 F2d 372).

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TAX EVASION VERSUS WILLFUL FAILURE TO FILE:

The felony of attempting to evade or defeat a tax may include one or several of other offenses against the Code (47B CJS 1256 at Note 63), the misdemeanor of failure to pay the tax. The difference is that an attempt to evade or defeat a tax involves some commission of some affirmative act in ADDITION to willful omission (Sansone v U.S. Mo 1965, 85 S. Ct 1004, 380 U.S. 343) (Spies infra).

WILLFUL FAILURE TO FILE:

Any person required to file an income tax return who willfully fails to do so is guilty of a misdemeanor. (Title 26, sec 7203; Spies v U.S. N.Y. 1943, 63 S. Ct 364.) (See 47B CJS 1258 at note 86.)

THE ELEMENTS THE GOVERNMENT MUST PROVE ARE:

1. Defendant failed to file a return (47B CJS 1258 at Note 89).

2. He must be a person required to make a return (47B CJS 1258 at Note 93).

3. He must have done so willfully (47B CJS 1258 at Note 90).

The word "willfully" in the Statute means a voluntary, intentional violation of the known legal duty to file a return (47B CJS 1258 at Note 5), and the taxpayer's motives in failing to file such are immaterial and irrelevant (47B CJS 1258 at Note 96). Some cases have construed the statute as not requiring an intent to defraud the government or other similar bad purpose or evil motive (47B CJS 1258 at Note 97), while other cases have held that Failure to file a return "willfully" means that the act must have been activated by a bad purpose or evil motive (47B CJS 1258 at Note 98).

Willfulness means a voluntary intentional violation of a known legal duty (47B CJS 1256 at Note 45) which may be shown through consistent patterns of not reporting large amounts of income.

An act may be done knowingly and intentionally whether as the immediate act of the person charged, or his authorized act through an employee. (Prather v U.S. 1834, 9 App D.C. 82).

DEFENSES:

He must have actual knowledge of the existence of the obligation, and a wrongful intent to evade it. (47B CJS 1258 at Note 91).

Defendant's good faith belief that he need not file his tax return (47B CJS 1258 at Note 99), or a good faith misunderstanding or an inadvertence on his part (47B CJS 1258 at Note 91) has been said to constitute justification for failure to file a return.

It has been held that a taxpayer, who in good faith, declines to acknowledge his income on an income tax return, asserting instead his Fifth Amendment privilege, has been held not guilty of willfully failing to file a tax return, since he sincerely believes that such 5th Amendment filling is not legal (47B CJS 1258 at Note 77).

Tax forms which do not contain financial information upon which the taxpayers liability can be determined, (47B CJS 1258 at Note 93) such as forms containing only one's name, address, social security numbers, and occupation (47B CJS 1258 at Note 94), do not constitute "returns" within the meaning of the statute.

UNACCEPTABLE DEFENSES:

a) A taxpayer is not excused from the offense because he had not previously been prompted or notified of his duty to file a return (47B CJS 1258 at Note 2), because he disagreed with the law (47B CJS 1258 at Note 3), or because he believed in good faith that the statute (47B CJS 1258 at Note 4 or the Federal Reserve System (47B CJS 1258 at note 5) was unconstitutional.

b) Defendant's fear of self incrimination for previous violations of the Code is no defense to a charge of failure to file a return (47B CJS 1258 at Note 6).

Subsequent conduct of the defendant cannot relieve him from criminal liability for failure to file a return (47B CJS 1258 at Note 8). It is no defense that the defendant intended to file a return and to pay his taxes in the future (47B CJS 1258 at Note 9), and even the fact that the taxpayer voluntarily filed delinquent returns does not preclude prosecution (47B CJS 1258 at Note 10).

c) Compromise of Civil liability. The prosecution is not barred by a compromise of the civil liability (47B CJS 1258 at Note 11).

CONCLUSION:

As you can see, by negating wages as income, only profit or gain need to be considered, making most persons ineligible for filing. There is no willful act, no omission, no intent, and no income ... hence no case for the prosecution, and even if confronted by an angry jury, by relying on the U.S. Supreme Court decisions, YOU MUST BE ACQUITTED AS A MATTER OF LAW. If you are not acquitted, your lawyer will for a Judgment not withstanding the verdict, and/or appeal, from which you will be eventually found not guilty.

End.